



**International covenant  
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**HUMAN RIGHTS COMMITTEE**

**REPLIES TO THE LIST OF ISSUES (CCPR/C/DNK/Q/5)  
TO BETAKEN UP IN CONNECTION WITH THE CONSIDERATION  
OF THE FIFTH PERIODIC REPORT OF THE GOVERNMENT OF DENMARK  
(CCPR/C/DNK/5)\***

[24 September 2008]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Reply to the List of Issues to be taken up in conjunction with the consideration of the fifth periodic report of Denmark.

### **Question 1**

In a motion tabled in the Faroese Parliament 25 April 2007 the Faroese Prime Minister recommended to establish an ad hoc parliamentary committee with the aim of drafting a Constitution of the Faroes. The draft proposal submitted by the Constitutional Committee on 18 December 2006 was concurringly forwarded to Parliament with a view to form the basis of the parliamentary ad hoc committee's work. The motion was passed with overwhelming majority (25 yes, 3 pass, 0 no) on 2 May 2007. Consequently, an ad hoc committee was established on 7 May 2007.

According to the Rules of Procedure of the Faroese Parliament, the mandate of the ad hoc committee lapsed, when the parliamentary session ended on 28 July 2007. After a general election on 19 January 2008, a new government was formed in February 2008. In the coalition paper the government states the following:

“The work on a Constitution of the Faroes shall be finalised, a report shall be submitted to Parliament, and thereafter a referendum shall be held in 2010”.

### **Question 2**

The question of incorporation of the Covenant is – obviously – not a question of complying or not complying with the Covenant, but rather a question of the choice of methods to ensure its implementation.

The task of the Committee on Incorporation of Human Rights Conventions into Danish Law was to examine the advantages and disadvantages of incorporating the general human rights Covenants and conventions, and to thus provide an input to the decision-making of the Government.

As it appears from paras. 60-65 of Denmark's fifth periodic report, the decision of the Government not to incorporate the CCPR into Danish law was not related to legal obstacles. On the contrary, given the fact that the CCPR – as well as other conventions that have not been incorporated – is a relevant source of law and is already applied by the courts and other authorities, the Government does not consider it legally necessary to incorporate the Covenant.

In this connection the Government would like to reiterate that the human rights conventions that Denmark has ratified are all relevant sources of law regardless of the method of implementation. Conventions that have not been explicitly implemented by specific acts of law because harmony of norms has been ascertained, can be and are in fact invoked before and applied by the Danish courts and other law-applying authorities.

### Question 3

There are no current deliberations on the withdrawal of the Danish reservations to the Covenant.

As regards the Danish reservation to Article 10(3) of the Covenant, reference is made to Denmark's response to para. 16 of the "List of Issues".

As regards the Danish reservation to Article 14(5) of the Covenant, reference is made to Denmark's response to para. 22 of the "List of Issues".

### Question 4

The Committee established to review and evaluate the current system for handling complaints against the police has the following composition:

- High Court judge Svend Bjerg Hansen (chairman)
- Professor, lic.jur. Gorm Toftegaard Nielsen, University of Aarhus
- one member nominated by the Director of Public Prosecutions
- one member nominated by the Association of Public Prosecutors
- one member nominated by the National Commissioner of Police
- one Commissioner of Police
- one member nominated by the Association of Prosecutors
- one member nominated by the Police Union
- one member nominated by the Danish Association of Judges
- two members nominated by the National Association of Police Complaints Boards
- one member nominated by the General Council of the Danish Bar and Law Society
- one member nominated by the National Association of Assigned Counsels
- one member nominated by the Danish Institute for Human Rights
- one member nominated by Local Government Denmark
- one member nominated by the Ministry of Justice

The Committee has not issued any preliminary conclusions. The Committee is expected to submit its report in the fall of 2008.

### Question 5

#### A. In Denmark:

Women in public life including at the local level: In Denmark, women and men enjoy the same political rights. Women as well as men have a right to vote and to stand for election to local councils, the Folketing (national Parliament) and the European Parliament.

Women in local politics: In local politics, the proportion of women has remained unchanged at 27 per cent from the election in 2001 to 2005. After the local government elections in 2001, women accounted for 9.2 per cent of the mayoral offices.

2008 marks the 100th year since women gained the right to vote in local government elections. The Minister for Gender Equality will celebrate the occasion with an awareness-raising campaign. All political party branches throughout the country have received a leaflet in May 2008 containing advice on how to get more women to put their names forward for nomination lists. The leaflet contains statistics in an easily accessible form, as well as personal stories and advice to women who are interested in local politics. This year will, furthermore, see a number of events that will be implemented together with local government cooperation partners. The next local government elections are scheduled for 2009. The objective of the awareness raising campaign is to place focus on the low number of women in local politics and to provide advice on what can be done to change the situation.

Quotas or affirmative action regarding political decision making and highlevel positions in the public service: No specific activities taken.

Enhancement of the participation of women in the private sector: Since 2003, the Minister for Gender Equality has focused on women in management. In the private sector, women account for a mere 4 per cent of senior executives. At the level immediately below, at "executives" level, the figure for women is 7 per cent. Women represent between 15 and 19 per cent of middle managers in the private sector. In the state sector, women account for 20 per cent of senior executives, in the municipalities the figure is 22 per cent.

With regard to boards, women are particularly under-represented in large enterprises, where a mere 11 per cent of the directorships are held by women. By comparison, the proportion of women directors is close to 24 per cent in small enterprises and approximately 18 per cent in medium-size enterprises. A total of 62 per cent of the boards of large enterprises have no women members.

The strategy for the Minister's action in the area is based on cooperation, dialogue and knowledge sharing with the cooperation partners in the private sector. It must be made clear to the enterprises that it is good business strategy to recruit from the entire pool of talent, and that women in management mean better executive teams and better opportunities to address all the enterprise's customer segments. Rather than introduce quotas, the Minister for Gender Equality has decided to launch a charter for more women in management in March 2008.

The charter has been drawn up by a steering group comprising managers from five public and five private enterprises. The charter is to function as a driving force for the work on women and management. The Minister for Gender Equality invites public and private enterprises to sign the charter. Enterprises that sign the charter commit themselves to setting goals for getting more women into management. The individual enterprise itself is required to set up target figures and tailor activities and initiatives to the conditions of the enterprise, for example sector, size and proportion of women employees. The steering group has drafted a catalogue of ideas containing examples of best practice and human resource tools as a source of inspiration for the work towards boosting the number of women in management. As of August 2008 35 public and private enterprises have signed the charter. The goal originally set was 100 enterprises by 2010.

## **B. The Faroe Islands**

The efforts made by the Faroese Government to enhance the participation of women in public life have been to raise awareness of gender equality issues and aimed at precipitating a shift in the common attitude towards gender equality so as to ensure that women and men fully can enjoy equal opportunities in Faroese public life.

Women and men are vested the same political rights, i.e. they have equal electoral and eligibility rights to the Faroese Parliament and local government councils as well as to the Danish Parliament, which has two representatives from the Faroes. Nevertheless, women are still not as well represented as the male gender in political decision making positions.

To address the low participation of women in politics the Faroese Government established an independent committee, Demokratia, appointed in 2005 with the explicit assignment to encourage more women to participate in politics.

In 2006 and 2007 Demokratia organized a series of public information events and general debates, where the overarching aim was to increase public awareness of the importance of augmenting the number of female representatives in Faroese politics and identifying how this could be achieved. In addition, in the months before the general election in January 2008 Demokratia launched a major campaign to encourage women to actively partake in political debates and to increase the number of women running for parliament. This campaign achieved widespread media coverage and was supplemented by an advertisement campaign, activities aimed at raising awareness of gender parity in primary schools, an interactive website on gender equality, and courses in presentation-skills for women in politics and trade unions.

The responses from the government, media, and the general public to the initiatives have by large been positive. Most political parties have placed gender equality on their political agendas and at an organisational level the parties have taken measures to improve the internal organisation so as to encourage more women to run for parliament. In other words the issue of gender equality in politics has now become an accepted and integral part of the public debate.

Measurable results of the efforts of Demokratia can be seen in the outcome of the general elections in January 2008 where the share of women in parliament increased from 9.4% to 21.2%. This is a significant increase which can partly be explained by the combined efforts of Demokratia and the Faroese Government to promote the participation of women in politics.

Furthermore, after the general elections in 2008, the female representation in the Faroese executive powers, i.e. government, increased substantially, namely from none to 3 of 8 possible ministerial seats. In other words the representation increased from 0% to 37.5%. The public debate and the results of the general elections clearly indicate that there is a change in attitude with respect to the importance of gender equality in political and public forums.

Municipal elections were last held in 2004 and women were underrepresented on most municipal and local government councils accounting for 22.1% of the total council seats. Furthermore, women held 18.2% of the seats as mayors and 24.9% of the positions as Head of Local Administration.

Municipal elections will be held in November 2008, and this could indicate whether the increase in female representation seen in the general elections in 2008 will be reflected *mutatis mutandis* in the municipal council elections.

Demokratia has announced that throughout the fall of 2008 significant efforts will be focused on a campaign to increase the participation of women in local politics.

Statutory quotas or affirmative action regarding political decision making and high-level positions in the public service.: No affirmative actions taken.

The Gender Equality Act provides that the number of women and men serving on public commissions and councils shall be equal. Within this context equality is defined as an equal number of members of both sexes and in case of an odd number of board members either sex must only be overrepresented by a single member on the board, e.g. on a board of 5 members equality is achieved if the sexes are distributed 3 to 2, but not if they are distributed 4-1. Since the law entered into effect, the Gender Equality Commission has worked diligently to ensure that the representation of women and men on these public councils is in accordance with the provisions set forth in the above mentioned law. In 2000, there were 70% men and 30% women serving on public commissions and councils. In 2007 there were 65% men and 35% women.

With regard to high-level positions in the public service, women serve as the senior administrator in 19 of the 76 government and public institutions (i.e. 25%). Furthermore, of the eight current government ministries on the Faroes only one has a female Permanent Secretary. However, the Permanent Secretary to the Faroese Parliament and the Ombudsman to the Faroese Parliament are both women.

Enhancement of the participation of women in the private sector: While women participate on equal terms in the Faroese private sector, there is clear under-representation of women in senior positions. Merely 20.1% of the registered Faroese companies have a female CEO or managing director, women hold 19.7% of the total seats on Faroese corporate boards and 14.2% of the registered Faroese companies have a woman as chairmen of the board (September 2007 figures).

Specific programs continue to be arranged so as to strengthen the competence of women on the labour market and as independent business professionals. For example, the adult education program at the Faroese Business School and the Faroes Trade Council have conducted classes specifically designed for women who were interested in establishing their own businesses or who had their own businesses.

## Question 6

In May 2008 the Act on The Board of Equal Treatment was adopted. The Board of Equal Treatment, which comes into force on 1. January 2009, will cover all fields of discrimination stipulated in the Danish anti-discrimination legislation.

The Board may consider complaints on ground of gender, race, colour, religion or belief, disability, political opinion, age or sexual orientation, national, social or ethnic origin. The Board may award compensation and set aside dismissals to the extent provided for by the said acts, etc.

The decisions made by the Board cannot be appealed against to any other administrative authority. Once the Board has made a decision about a complaint, either party may bring the matter before the courts. Where the decisions made by the Board are not observed, the Board shall, at the complainant's request and on his or her behalf, bring the matter before the courts.

As a consequence of the establishment of the Board of Equal Treatment, The Gender Equality Board and The Complaints Committee for Ethnic Equal Treatment will be abolished.

### **Question 7**

Other religious communities than the National Church continue to receive subsidies from the State. Religious communities other than the National Church and their members can obtain substantial indirect subsidies from the State. This is due to the possibility for taxpayers to deduct contributions (gifts and other regular payments) to other religious communities in their tax returns. The tax authorities approve the eligibility of religious communities and societies for tax deductible contributions and supervise their continued eligibility for approval.

In November 2005 two Catholics each filed a law-suit against the Ministry of Ecclesiastical Affairs (Koza-trial and the Toft-trial). In both trials, the plaintiffs contested that § 4 of the Danish Constitution was in conflict with the European Convention on Human Rights and the Universal Declaration of Human Rights on the grounds that the government grant to the National Church is pertinent to proclamation of the Lutheran-Evangelical Church, and that non-members of the National Church are forced to contribute personally to another religion than their own through their general taxes.

In the Koza-trial, the plaintiff also contested that the Danish system for the registration of births was in conflict with the European Convention on Human Rights and the Universal Declaration of Human rights. Further, in the Toft-trial, the plaintiff contested that a higher tariff charge for the acquisition of a burial place for non-members of the National Church than for members of the National Church was in conflict with the human rights provisions mentioned above.

Concerning the government grant to the National Church, the High Court ruled that there is no direct connection between regular taxes and the state's economic grant to the religious activities of the National Church as non-members of the National Church do not pay the specific church-tax. Non-members of the National Church only contribute indirectly to the government grant through their regular taxes. In the Koza-trial the High Court ruled, that the National Church administers the registration of births as a state administrative authority pertaining to public law. Further, the High Court ruled that even though the registration of births is handled by a minister or sacristan in the National Church, the registration has a non-religious character and the informer does not, at the registration of births, come into contact with the Evangelical-Lutheran faith. Afterwards the Koza-trial was appealed to the Danish Supreme Court. Here the High Court sentence was affirmed in November 2007.

In the Toft-trial, the High Court ruled that it is an impartial sum in acquittance that underlies the authority to stipulate different tariffs for the acquisition of burial places for members and non-members of the National Church since members of the National Church, in

contrast to non-members, completely pay the expenses to the burial authorities, partly through the church tax, partly through user's fee.

### **Question 8**

The Danish Criminal Code was amended by Act no. 494 of 17 June 2008, which inserted a special section on torture into the Criminal Code. The amendment entered into force on 1 July 2008. According to the new section 157 A, it is to be considered an aggravating circumstance when sentencing that a violation of the Criminal Code, e.g. homicide, assault, rape etc., has been committed by torture.

Section 157 A contains a definition of torture which is created with the definition of torture in the United Nations Convention against Torture in mind. The amendment was based on a report by the Committee on Criminal Law. The report contains a thorough analysis of the question of insertion of a special section on torture in the Danish Criminal Code. The Committee found that acts of torture are already criminalized by existing sections of the Danish Criminal Code, e.g. homicide, unlawful coercion, deprivation of liberty etc.

The Government agrees with the Committee on Criminal Law, that a section which implies raised penalties for acts of torture is in better conformity with national principles of legislation. The Government also agrees with this Committee that a section which implies raised penalties for acts of torture emphasises that torture is a very serious crime; it ensures that acts of torture – by nature of the definition contained in the said section – are easier to register, and the specific nature and coarseness of the crime are reflected in a more adequate manner in connection with the criminal proceedings (e.g. indicted for “deprivation of liberty committed by torture”).

### **Question 9**

Pursuant to section 7(1) of the Danish Aliens Act, a residence permit will be issued to an alien upon application if the alien falls within the Convention relating to the Status of Refugees (28 July 1951) (Convention status).

Pursuant to section 7(2) of the Aliens Act, a residence permit will be issued to an alien upon application if the alien risks the death penalty or being subjected to torture, inhuman or degrading treatment or punishment in case of return to his country of origin (protection status).

The wording is close to the wording of Article 3 of the European Convention on Human Rights and it appears from the explanatory comments to section 7(2) that Denmark in addition to the provisions of the European Convention on Human Rights has an obligation to respect a number of other conventions of relevance to the provision, including ICCPR art. 7.

It follows from section 32 a of the Aliens Act that a rejection of a claim of asylum must include a decision as to whether the alien in question can be removed of the country if he or she does not voluntarily leave, cf. section 31 of the Aliens Act.

Pursuant to section 31(1) of the Aliens Act an alien may not be returned to a country where he will be at risk of the death penalty or of being subjected to torture or inhuman or



degrading treatment or punishment, or where the alien will not be protected against being sent on to such country. The provision applies to any alien and the application of the provision must be in accordance with the case law of The European Court of Human Rights in the area of non-refoulement. The provision is absolute and thus includes any alien regardless of possible actions the alien may have committed either in Denmark or elsewhere.

It follows from section 31(2) of the Aliens Act that an alien may not be returned to a country where he will risk persecution on the grounds set out in Article 1A of the Convention relating to the Status of Refugees (28 July 1951), or where the alien will not be protected against being sent on to such country.

The prohibition against refoulement has significance in cases where an alien does in principle satisfy the conditions for being granted asylum but has either been excluded from being granted asylum or has had a residence permit revoked and is ordered to leave the country. If the alien does not subsequently leave Denmark it follows from the provision of non-refoulement in section 31 of the Aliens Act that he or she cannot forcibly be removed from the country and in consequence the alien remains on a so-called "tolerated stay".

An alien who is about to be removed from the country and who has not applied for asylum has the possibility of making the claim that the removal will be in conflict with the principle of non-refoulement. In this case the authorities will not enforce the removal until this claim has been assessed.

### **Question 10**

Violence against women is an infringement of the Danish Criminal Code. In addition, the Government regards violence against women as a reflection of a lack of equality and respect between women and men.

It is estimated that approximately 70,000 women aged 16-64 are exposed to physical violence on an annual basis. In 40 per cent of the total number of violence cases, the perpetrator is a present or former partner, which means that approximately 28,000 women aged 16-64 are the victims of partner violence every year. In the period 2000-2005, there was an estimated fall of one third in the number of women victims of partner violence, the former estimate was 42,000 women.

In 2002, the Government's first action plan to combat violence against women was launched (2002-2004). The first action plan contributed to breaking the taboo surrounding domestic violence against women, but there is a need for maintaining focus on the problem. Therefore, on 20 April 2005 the Minister for Gender Equality presented a new four-year "Action Plan to Combat Men's Domestic Violence against Women and Children 2005-2008". The activities of the Action Plan for 2005-2008 focus on prevention and on action within the four main goals to:

- Support the victims,
- Target activities at the perpetrator,
- Target activities at professionals,
- Promote knowledge and information.

For the period 2005-2008, a total of DKK 60 million has been earmarked for the implementation of the action plan. Subsequently, another DKK 48 million has been allocated for a project under the heading "Support and treatment aimed at women and children victims of domestic violence", as well as a total of DKK 15 million for the years 2007-2010 to strengthen treatment for violent men.

The action plan involves five ministries: the Ministry of Health and Prevention; the Ministry of Refugee, Immigration and Integration Affairs; the Ministry of Justice; the Ministry of Social Welfare and the Minister for Gender Equality.

The inter-ministerial working group monitors the implementation and publishes an annual situation report on the implementation. The situation report is submitted to, among others, the Folketing.

An independent evaluation has been drawn up of the Government's first action plan to combat violence against women 2002-2004. Similarly, in the course of 2008 an independent evaluation will be conducted of the most recent action plan. This evaluation is to constitute the background to future action to combat violence against women.

Furthermore, in August 2007 the National Commissioner of Police published a strategy for reinforced police action against homicides and other serious crimes motivated by jealousy. The main focus points of the strategy are: Establishing special units in each police district to gain and develop a high level of professional competence, strengthening of the cooperation between police, social authorities and health care authorities and efficient use of restraining orders, expulsion orders and restriction orders.

In May 2008 the Director of Public Prosecutions issued new and revised instructions for the investigation and prosecution in cases regarding domestic violence. The aim of the instructions is to strengthen the process concerning cases regarding domestic violence within the police and the prosecution service, and thereby increase the efficiency of investigations and prosecution of cases regarding domestic violence. Subject to certain regionally determined exceptions the Greenland police observes the principles outlined in the instructions issued by the Director of Public Prosecutions regarding the investigation and prosecution of cases regarding domestic violence.

In 2007 the Greenland police responded to 3.712 cases of domestic disturbances in an effort to prevent domestic violence.

The Greenland Home Rule Government and the municipalities fund shelters/crisis centres on a 50/50%-basis. At present, there are established shelters/crisis centres in 7 of the 17 municipalities. In 2007, 413 women and 95 children stayed at the shelters/crisis centres.

Because of the high level of violence, especially against women (according to a statistical survey from 2007 16% of grown up women have experienced violence or threats of violence during the last year) the Greenland Home Rule Government has launched an information campaign concerning violence. Leaflets concerning violence have been published in order to document the problem and in order to give the authorities and the population tools to prevent violence, rape and sexual abuse.

Along the same line, the Greenland Home Rule Government has decided to make a national strategy against violence, rape and sexual abuse in order to

- Break the taboos concerning violence, rape and sexual abuse
- Create an understanding of the fact that violence, rape and sexual abuse is not acceptable
- Create information on helping children, youth and grown ups afflicted by violence, rape or sexual abuse

Strengthen the competence of the population to concern for each others to prevent violence, rape or sexual abuse and to help persons afflicted by that.

It is expected that the Cabinet will approve the national strategy in the beginning of 2009.

### **Question 11**

Lately, there has been renewed focus in Denmark on alleged CIA flights through Danish and Greenlandic airspace. Reports in the press have presented information that CIA flights might have used Danish and Greenlandic airspace without the required Danish permission. On this basis the Danish Government has initiated a governmental inquiry into the issue.

The inquiry is conducted by a task-force chaired by the Ministry of Foreign Affairs and consisting of the Ministry of Justice, the Ministry of Defense, Defense Command Denmark, the Ministry of Transportation, the Danish Civil Aviation Administration, the Prime Minister's Office, the Home Rule Governments of Greenland and the Faroe Islands and the Greenland Civil Aviation Department.

The objective of the task-force is to examine all existing information related to the alleged CIA flights through Danish, Greenlandic and Faroe Island airspace including the information presented in the documentary "CIA's Danish Connection" broadcasted by the national Danish television station DR (Danish Broadcasting Corporation) ultimo January 2008.

The report of the task-force is expected to be published by mid-October. The outcome and conclusion of the inquiry should therefore be available for presentation during the meeting with the UNHRC.

No decision has been made to rely on diplomatic assurances. The Minister of Refugee, Immigration and Integration has established a working party on administrative deportation of foreign nationals, who are deemed a danger to national security. The working party is expected, inter alia, to consider diplomatic assurances. Denmark recognizes that diplomatic assurances do not release the State from its obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement. Any steps taken will fully respect Denmark's international obligations, including ICCPR art. 7.

### Question 12

Incidents amounting to abuse or ill-treatment perpetrated on prisoners are rare. In the period 1 January 2006-31 August 2008, the Department of Prisons and Probations have found in 13 cases that prison staff violated the Criminal Code or prison rules in connection with their treatment of prisoners. This includes cases currently pending before the courts. Those cases cover all such violations, i.e. also incidents of minor importance. For a detailed account please see the table below.

As regards deaths in custody, all cases are examined by the Department of Prisons and Probation and by the Parliamentary Ombudsman and are thus subject to double review. In the period 2003-2007, there have been 30 deaths in prisons. Apart from a single case which was caused by a medical error and in which the relatives were awarded compensation, no deaths were attributable to actions by prison staff.

As regards investigations of reported violations of the Criminal Code or of prison rules by staff, if the Department of Prisons and Probation becomes aware that an employee has or may have committed a criminal act, the Department reports the matter to the police and, normally, simultaneously releases the employee from work. If the employee is charged by the police with a criminal offence, the employee will be suspended. Depending on the outcome of the criminal proceedings, the Department decides on any consequences under employment law for the employee.

If an employee violates prison rules, the Department will assess whether to release the employee from work or suspend him or her immediately. After receiving a report from the institution employing the employee, the Department assesses whether there is sufficient basis for instituting disciplinary proceedings against the employee. If this is the case, the matter is submitted to a judge who conducts an investigation with interviews of relevant parties and witnesses and submits a recommendation to the Department which the Department complies with in the vast majority of cases. The disciplinary sanctions available are caution, reprimand, fine, transfer to other work or institution, demotion, or dismissal.

Of the cases mentioned above, the Department has paid compensation to victims or their families in two cases, and one case is pending. No application for compensation was submitted in the other cases. In all cases where the Department found that the prisoner had been subjected to an unwarranted measure, the prisoner was counselled about the possibility of applying for compensation.

<b>Time of incident</b>	<b>Allegation</b>	<b>Status (as of 1 September 2008)</b>
February 2006	violence and other acts against a prisoner during transportation	The employee was dismissed due to unfitness for work for health reasons.
April 2006	a blow to a prisoner's head with closed fist during transportation	The employee was released from work and later suspended. He was sentenced to 50 days' imprisonment by the District Court, but was acquitted by the High Court. He resumed work and was transferred to another institution.

August 2006	(a female employee) searching a male prisoner	The employee was given a disciplinary sanction in the form of a caution.
January 2007	a prisoner's inability to use a urine bottle or a bedpan in connection with being placed in a security cell so that he had to relieve himself in his trousers	The reason why the prisoner did not receive a urine bottle or a bedpan was confusion as to which staff group would have to assist in this. The Department has requested the institution to inform the Department what it intends to do to avoid similar situations in future, and whether the institution found basis for any sanctions in terms of employment law. The question of compensation is pending before the regional public prosecutor.
April 2007	failure to lock the door of a unit while the door of a prisoner in voluntary solitary confinement was open; as a consequence, the prisoner was assaulted by another prisoner; the employee did not call a doctor and did not make a report of the incident	The employee considered to be the principal instigator of the incident was dismissed. Two other employees who were also present were fined.
April 2007	decision to apply hand-cuffs to a prisoner to enforce a rectal examination	The Department expressed criticism of the decision and impressed on the employee (the director of the prison) that he had to observe the rules.
April/May 2007	stepping on a prisoner's toes and (on another occasion) using force in the form of a hold on the prisoner's arm	The employee was subjected to a disciplinary hearing and acknowledged that it is not allowed to give prisoners orders by stepping on their toes, and that he was a contributory reason why the situation (on the other occasion) developed into use of force. In view of the employee's acknowledgement of the events, the institution found no reason to impose a formal disciplinary caution on him. The prisoner received a discretionary compensation of DKK 500 for the unwarranted use of force.
September 2007	rape	The employee admitted sexual intercourse and was charged with violation of section 219 of the Criminal Code (sexual intercourse between a member of the prison staff and a prisoner). The officer was promptly released from work and later suspended. The criminal proceedings are pending.

November 2007	handcuffing and throwing a prisoner into the bottom of a vehicle in connection with transportation; the prisoner alleged that he was trampled on his back during the transportation, and that he was dragged out of the vehicle and into the unit, grazing the skin on his knees; the prisoner did not want to complain about the treatment	The Department found a violation of the rule requiring force to be applied as gently as possible and requested the management of the prison to notify the staff involved that it was criticisable that the staff had violated the rules for the use of force.
January 2008	applying exaggerated force to a prisoner by hitting him several times across the wrists with handcuffs	The employee was dismissed.
March 2008	throwing a prisoner down from his bed onto the floor into his own urine	The employee has been suspended. Criminal proceedings are pending.
April 2008	sexual molestation of two female prisoners	Police investigations are pending, and prison management is assessing whether the employee should be released from work.
July 2008	forcing a prisoner to be handcuffed with his hands on his back in connection with transportation and pulling the prisoner out of the vehicle by his legs	Police investigations are pending, and the Department is waiting for the police to decide about any charge before deciding on the possibility of suspension. (The employee is currently absent from work due to illness).

### Question 13

As stated in para. 246 of Denmark's fifth periodic report, the Standing Committee on Administration of Criminal Justice was asked to evaluate the feasibility of establishing a ceiling on the maximum time a person can be charged or held in custody on remand. Following the submission of the Committee's report, the Danish Administration of Justice Act was amended by Act no. 493 of 17 June 2008, which entered into force on 1 July 2008.

According to a new section 768 A of the Administration of Justice Act, unless special circumstances are present, pre-trial detention cannot exceed 6 months for charges regarding violations where the maximum penalty is less than 6 years' imprisonment and cannot exceed 12 months for charges regarding violations where the maximum penalty is 6 years' imprisonment or more. If the person charged is under the age of 18, unless very special circumstances are present, the maximum time of pre-trial detention is 4 months and 8 months, respectively.

For the sake of completeness, it should be noted that the new rules do not concern "the maximum time a person can be detained without charge" (see para. 13 of the "List of Issues"). Under Danish law, a person cannot be detained "without charge". Under the Danish Constitution, a person arrested by the police must be either released or brought before a judge within 24 hours, and if the arrestee is to be detained on remand, the judge must make a reasoned order within 3 days.

### Question 14

There are no current deliberations to introduce an absolute limit on the duration of solitary confinement of persons detained on remand who are charged for a crime under chapters 12 or 13 of the Criminal Code, including persons under the age of 18. The Government finds that there can be a very strong need to retain a person in solitary confinement for a longer period of time in cases concerning the most serious crimes, in particular in cases with professional, strongly organised elements and international relations. It would not be acceptable if the investigation of such cases could not be carried through because of an absolute time limit on the duration of solitary confinement.

Furthermore, it should be noted that "solitary confinement" means that the detainee is excluded from association with other detainees, but the detainee has extensive rights to compensate for that exclusion:

Personnel must continuously be particularly attentive as regards the need of detainees held in solitary confinement for more extensive contact with personnel, visit by a doctor, including a psychiatrist, more extensive access to visits etc.

Detainees held in solitary confinement must be provided with a television free of charge.

Detainees held in solitary confinement should be allowed a visit at least once a week for not less than one hour. Longer visits must be allowed to the extent that circumstances permit.

Detainees held in solitary confinement for more than 2 weeks must be offered regular, long conversations with e.g. a priest, doctor or psychologist.

Detainees held in solitary confinement for more than 2 weeks must be offered special access to individual tuition and work, including other authorised activity, in order to reduce the special strain and risk of disturbance of mental health which solitary confinement entails.

Detainees held in solitary confinement for more than 6 months and detainees under the age of 18 held in solitary confinement for more than 4 weeks have the right to additional activities with personal contact for at least 3 hours per day. The head of the detention centre or a person authorised to act on behalf of the head of the detention centre must in cooperation with the detainee make a weekly plan for the additional activities.

### **Question 15**

Decisions on the exclusion of a convicted prisoner from association (“solitary confinement”) can be brought before the courts for judicial review pursuant to section 63 of the Danish Constitution and before the Parliamentary Ombudsman.

There are no current deliberations to introduce other forms of judicial review or supervision of such decisions. For the reasons described in the travaux préparatoires of the Danish Act on Enforcement of Sentences, exclusion from association is not comprised by the special right of an immediate judicial review according to the Act on Enforcement of Sentences.

The special right to a judicial review laid down by the Act comprises decisions that are similar to criminal proceedings or are otherwise of an especially interfering nature for prisoners. This concerns decisions concerning the calculation of the sentence, withholding of letters for the protection of victims, disciplinary sanctions, confiscation, set-off regarding compensation, refusal of release on parole, etc. However, decisions based on considerations of order and security in the prison, including decisions about exclusion from association, are not comprised.

The reason is that, to a great extent, an assessment of the need for intervention in such cases would be based on the professional assessment of the Prison and Probation Service. The decisions are often discretionary decisions made on the basis of a thorough knowledge of the environment in the prison, a knowledge that the courts do not have to the same extent. Furthermore, due to their nature, these decisions normally have to be made and effected quickly, and, for this reason, a judicial review could not, as a general rule, stay the execution. A special judicial review of these decisions, where the outcome would only be known some time after the decision was made, is therefore neither expedient nor required.

### **Question 16**

Currently (i.e. at the beginning of September, 2008), one juvenile offender is serving his sentence together with adults in an open prison.

As for the question why Denmark has not had special young offenders’ units in open prisons since 1999, Danish experience shows that the previous arrangement with placement in special young offenders’ units may involve some disadvantages to the young offenders, as was also stated in para. 300 of Denmark’s fifth periodic report.



However, as mentioned in para. 301 of Denmark's fifth periodic report, the Prison and Probation Service has received funding to open a special open unit attached to Jyderup State Prison for 15 to 17-year-old offenders.

From mid-2009, young offenders who have to serve a sentence in an open prison will therefore be placed in a special unit (with five places) in Jyderup State Prison. The building will be isolated from the adult units with its own activity rooms. The prison expects to be able to offer the young offenders socio-educational support in the form of assistance from an interprofessional group of psychologists, social workers or other relevant professionals attached to the unit. With these offers, the Prison and Probation Service expects to be able to meet the special needs of this small group of young offenders, thereby reducing the inconvenience involved in placement in special young offenders' units.

As regards the arrangement referred to as the "foot shackle" arrangement in para. 278 of Denmark's fifth periodic report, the Danish Act on Enforcement of Sentences was amended in 2005 to allow persons convicted of violation of the Danish Road Traffic Act to serve their sentences at home under intensive monitoring and control, the so-called electronic tagging scheme. As stated in para. 278 of Denmark's report, the scheme was extended in 2006 to include all offenders under 25 years of age sentenced to up to three months' imprisonment.

The scheme has worked well and was therefore extended as of 1 July 2008 to include all offenders sentenced to up to three months' imprisonment regardless of age and offence.

As regards the content of the scheme, reference is made to para. 277 of Denmark's report.

### **Question 17**

The Prison and Probation Service has a general responsibility to ensure that everybody who is serving a prison sentence can serve under safe conditions without risking any violence, threats, etc. from other prisoners.

It is difficult to uncover the exact extent of inter-prisoner violence and threats of violence. Since 2004, the Prison and Probation Service has collated statistics to survey the number of events of inter-prisoner violence and threats of violence in prisons. These statistics probably do not reflect the total extent of violence and threats, but give an expression of the events that come to the knowledge of the Prison and Probation Service. According to these statistics, in 2007, 199 prisoners were subjected to violence or threats from fellow prisoners.

For many years now, the Prison and Probation Service has made continuous efforts to combat the problems of inter-prisoner violence and threats of violence in the prisons through various initiatives.

Vulnerable prisoners in the institutions of the Prison and Probation Service are mainly protected through dynamic security, which requires a fairly high staff density and a close continuous contact with the prisoners.

The Prison and Probation Service endeavours to give vulnerable groups of prisoners the best possible opportunities for serving their sentences under safe conditions. This is a

prerequisite for the prisoners to develop skills that enhance their chances of living crime-free lives after being released. Accordingly, special units have been established for a large number of particularly vulnerable prisoners, including addicts, young offenders, sexual offenders and women. Normally, however, the Prison and Probation Service attempts to arrange conditions so that they deviate as little as possible from the everyday life outside the prisons. This principle means that, in several prisons, female prisoners may serve together with men if they want to. The Prison and Probation Service has also launched various initiatives for groups with special needs, such as treatment of addicts and initiatives for young offenders, ethnic minorities and prisoners in solitary confinement.

Moreover, the Prison and Probation Service places negatively strong prisoners in special units in order to protect other prisoners.

### **Question 18**

The provisions of the Integration Act regarding allocation to a municipality fully comply with article 12 of the Covenant. The main aim of the provision is to ensure that newly arrived recognized refugees are offered an introduction programme and provided with adequate housing. The provision does not contain a prohibition of the refugee's free choice of residence. A refugee may settle in another municipality if the refugee wishes to do so. However, in order to continue the introduction programme in the new municipality, the new municipality must accept to assume the responsibility for the introduction programme. The new municipality is under certain circumstances obliged to assume the responsibility for the continuation of the introduction programme, for instance if the refugee has been offered employment in the new municipality. If the new municipality denies assuming the responsibility for the introduction programme, this may have consequences for the refugee's access to introduction allowance and permanent residence permit.

### **Question 19**

A new Criminal Code for Greenland and a new Administration of Justice Act for Greenland were enacted in April 2008 and will enter into force on 1 January 2010.

### **Question 20**

The court reform aims to ensure high quality consideration of cases and to reduce the case processing times.

The latest figures (first half of 2008) show that the courts are now finishing more cases than before the implementation of the court reform. The processing times in the district courts have not been reduced whereas the processing times in the high courts have been reduced substantially.

The implementation of the court reform has required considerable effort. The courts have had to move to new premises, new organisational structures and new routines have been build up etc. These circumstances have led to an accumulation of cases, especially during 2007.

It is expected that a reduction in the case processing times also in the district courts will be achieved gradually as the court reform falls into place.

### **Question 21**

Act no. 215 of 31 March 2004 concerning public access to documents in civil and criminal proceedings entered into force on 1 July 2004. Prior to this the Danish Court Administration sent out general information and a set of non-binding general guidelines regarding the new rules to the Danish courts. The guidelines were at the same time posted on the Danish courts' website, [www.domstol.dk](http://www.domstol.dk).

The Court Administration has not encountered any difficulties in the implementation of the new rules.

On 7 July 2004, the Director of Public Prosecutions disseminated information on the new rules and instructions concerning the interpretation and application of the new rules to the prosecution service (Rigsadvokaten Informerer nr. 36/2004).

The Director of Public Prosecutions is not aware of any general problems relating to the implementation of the new rules on access to documents in criminal proceedings within the prosecution service.

However, due to reports from the police districts that considerable resources are spent handling applications for access to documents (police reports etc.) in closed criminal cases, the Director of Public Prosecutions is currently looking into a number of issues relating to the handling of applications for access to documents in such cases. One issue is the form in which access to documents should be given in closed criminal cases, and another issue is how to handle what seems to be an increasing number of applications from the media for access to documents in such cases.

### **Question 22**

As stated in para. 350 of Denmark's fifth periodic report, legislation for a reform of the jury system was adopted in June 2006. The legislation entered into force on 1 January 2008, and as of that date Denmark complies with Article 14(5) of the Covenant also in the most serious criminal cases, i.e. a person convicted in such a case has the right to the conviction and sentence being reviewed by a higher tribunal according to law.

However, as stated in para. 353 of Denmark's report, Denmark continues to restrict the right to appeal convictions in the least serious criminal cases, making an appeal dependent on a special permission from the Appeals Permission Board if the sentence does not exceed a fine of (for the time being) DKK 3,000, and for this reason there are no current deliberations on the withdrawal of the Danish reservation to Article 14(5) of the Covenant.

### **Question 23**

Pursuant to section 9 (1) of the Danish Aliens Act, upon application a residence permit may be issued to an alien over the age of 24 who cohabits at a shared residence, either in marriage or in regular cohabitation of prolonged duration, with a person permanently resident in Denmark over the age of 24.

The purpose of section 9 (1) of the Danish Aliens Act is to restrict the number of aliens reunified with their families to counteract the problems of aliens not in work and to enhance the efforts to combat marriages contracted against the will of the young people involved.

The rule does not regulate the right to contract a marriage but stipulates at what age a couple - if the rest of the conditions are met - can expect to obtain family reunification. Thus as a principal rule the requirement of 24 years applies to everyone who applies for family reunification. However, certain exceptional reasons can make it inappropriate to refuse an application even though both parties are not over the age of 24, e.g. when refusal of an application would interfere with the right to respect for family life guaranteed in Article 8 in the European Convention on Human Rights. Article 8 does not involve a general and unconditional right to family reunification. However, according to the case law of the European Court of Human Rights, the provision implies that family reunification cannot be refused in special cases.

Hence, there can be exceptional reasons to allow family reunification even though both parties are not over the age of 24 if it would otherwise be contrary to humanitarian considerations – e.g. due to serious illness or serious handicap – to refer the person residing in Denmark to establish family life in another country where the person cannot get the proper treatment. Correspondingly there can be exceptional reasons if the person residing in the state has access to minor children from a previous relationship residing in the state. Please note that the given examples are not exhaustive.

### **Question 24**

The case originated in the relocation of the Thule population in 1953 in connection with the establishment of the Thule Air Base under 1951 US-Denmark Defence Agreement.

The Thule Tribe and individual plaintiffs initiated proceedings against the Danish Prime Minister's Office in 1996 before the High Court (Eastern District) claiming compensation and right to return. In its judgment of 20 August 1999 The High Court ruled in favour of compensation (500.000 DKK to the Thule Tribe as such + 15.000 DKK for certain individual claims). Other claims such as the right to live in and use the abolished settlement and a right to access, occupy and hunt in the entire Thule district were dismissed.

The Thule Tribe and individual plaintiffs brought the judgment of the High Court to the Danish Supreme Court. On 28 November 2003 the Supreme Court handed down its judgment in unanimity affirming the judgment of the Eastern High Court.

The Supreme Court in its judgment included the question of indigenous peoples in casu the Thule Tribe situated in the North-Western part of Greenland (the Uummannaq settlement).

The Supreme Court stated that the Thule Tribe does not constitute a tribal people or a distinct indigenous people within or co-existing with the Greenlandic people as a whole.

At this point, the Supreme Court is consistent with the declaration made by the Danish government, acceded to by the Greenland Home Rule Government, in connection with the ratification of the ILO Convention. According to this declaration, Denmark has “only one indigenous people” in the sense of the Convention, namely the indigenous population in Greenland or the Inuit. In its decision of March 2001 on a concrete complaint case against Denmark, the Governing Body of ILO reached the same conclusion.

In January 1997 the Danish Prime Minister and Head of the Greenland Home Rule Government entered into an agreement concerning all questions relating to the Thule-case.

Furthermore, in accordance with Memorandum of Understanding of February 2003 between the Government of the United States of America and the Kingdom of Denmark, including the Home Rule Government of Greenland, the Dundas area has been relinquished from the Thule defence area and returned to Danish jurisdiction and, in accordance with the Home Rule Act, Greenland administration. The area has become part of the Municipality of Qaanaaq from 1st of January 2009 of the Municipality of the North – in Greenlandic Qaasuitsup Kommunia.

#### **Question 25**

(a) As The Thule Tribe is not considered a separate indigenous people cf. the answer on issue 24, it is not covered by art. 27.

(b) The fundamental rights of the German minority are protected by the general provisions of the Danish Constitutional Act and other legislation governing equal justice under the law, freedom of assembly and association, etc.

The Copenhagen-Bonn Declarations of 1955 provide an additional basis for the protection of the general rights of the two minorities north and south of the Danish-German border. The Copenhagen Declaration lays down, among other provisions, that a person may freely profess his loyalty to German nationality and German culture and that such a profession of loyalty must not be contested or verified by the authorities. Similarly, the Bonn Declaration lays down that a person may freely profess his loyalty to Danish nationality and Danish culture and that such a profession of loyalty must not be contested or verified.

The Copenhagen-Bonn Declarations ensure that the minorities on both sides of the border are capable of preserving their identity and their linguistic and cultural characteristics, and the declarations therefore still provide the framework for the present peaceful co-existence of people living in the Danish-German borderland.

In addition to the Copenhagen-Bonn Declarations, the Council of Europe’s Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages are also of relevance to the German minority.

(c) Roma in Denmark have arrived at very different times and from a variety of countries. They reside throughout the country, although most of them are based in the areas of Copenhagen and Elsinore. Roma are not registered specifically as Roma by the authorities, but according to the respective countries of which they are nationals. As a result, no information about the number of Roma currently living in Denmark is available. Many Roma are well integrated into the Danish society, while others have difficulty adjusting to life in Denmark.

### **Question 26**

The Covenant has been published in English, French and Danish in a manner parallel to legislation, it has been printed in a number of publications, and is available on several websites, including that of the Ministry of Foreign Affairs. The periodic reports are also available on the MFA website and they are forwarded to the relevant Parliamentary committees and the Caucus of Human Rights NGOs together with the concluding observations of the Committee. The concluding observations are the subject of MFA press releases. The Ministry of Justice has published a manual on individual human rights procedures, including ICCPR.

The Danish Police College enhanced human rights training and education during 2006 and 2007. This was done, inter alia, by implementing an increase in the number of lessons on the subject. One of these is devoted to the treatment by the police of victims of torture.

Another two lessons are devoted to a further examination of the issue of non-discrimination (on the basis of gender, ethnicity, handicaps, religion and sexual orientation) and the issue of international human rights, where focus is on Denmark's obligations in relation to international conventions.

Tuition in the above subjects is provided by instructors from the Rehabilitation Centre for Torture Victims and from the Danish Institute for Human Rights.

In the English language training curriculum four lessons have been devoted to an interdisciplinary project of English, human rights and police ethics. Students will undertake comparative analyses of the provisions of the English texts of the ECHR/the European Code of Police Ethics and the corresponding provisions in Danish Law. Thus, their knowledge and skills within both disciplines will be reinforced. In addition, students will carry out case studies of some of the ethical dilemmas that police officers will have to face in the course of performing their duties.

The Police Knowledge and Research Centre (located at the Police College) has launched a one-year research programme relating to professional ethics. The programme will contribute to establishing a foundation for the education in professional ethics in the future bachelor education programme. In addition, the project aims at promoting the awareness of ethical problems connected with exercising police functions.

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