



European Network against Racism



## Universal Periodic Review of Denmark, 38<sup>th</sup> Session of the UN Human Rights Council (2021)

The author of this Joint Stakeholder Report is the Danish UPR Coalition composed of the following 26 organisations.<sup>i</sup> Action Aid Denmark, Amnesty International Denmark, Association of Immigration Layers, Better Psychiatry, Danish Association of Legal Affairs, Danish Helsinki Committee for Human Rights, DRC Danish Refugee Council, Danish United Nations Association, DIGNITY – **Danish Institute Against Torture, Disabled People's Organisations Denmark, EuroMed Rights, European Anti-Poverty Network (EAPN), European Network against Racism (ENAR), Global Focus, International Rehabilitation Council for Torture Victims (IRCT), Intersex Denmark, Joint Council for Child Issues, LGBT+ Denmark, LGBT Asylum, National Council for Children, OASIS – Treatment and Counselling of Refugees, Refugees Welcome, Save the Children Danmark, Save the Children Youth, Women's Council and Youth for Human Rights.**

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## A) Human Rights Obligations and National Framework

### 1-2: Ratification of International Instruments

#### 1: Ratification of ICPPED<sup>ii</sup>

Since the first UPR cycle in 2011, Denmark has supported recommendations regarding ICPPED and its Committee. However, the Convention has not yet been ratified.

Recommendation: Ratify ICPPED as soon as possible.

#### 2: Ratification of International Human Rights Conventions<sup>iii</sup>

Denmark has not ratified a few other human rights conventions, including the ICRMW and the Optional Protocol to the ICESCR to open for the possibility to submit complaints to the ESCR Committee<sup>iv</sup> and Protocol 12 to the European Convention on Human Rights (ECHR).<sup>v</sup>

Recommendation: Ratify pending human rights conventions as soon as possible order to increase the scope of protection of human rights.

#### 3: Incorporation into National Legislation<sup>vi</sup>

**There have been no changes in Denmark's position on not incorporating core UN human rights** conventions into Danish law despite the different legal status between incorporated and non-incorporated conventions.<sup>vii</sup> The incorporation of ECHR into Danish law in 1992, demonstrated however that it does strengthen protection to give full effect to the rights stipulated in a convention.

Recommendation: Incorporate UN human rights conventions into national legislation to give full effect to the rights as enshrined in the conventions and ensure their justiciability.

#### 4: Assessment of Human Rights Protection in Practice<sup>viii</sup>

Denmark should assess whether its international legal obligations are effectively implemented in practice and whether policies violate or impact negatively on human rights norms. This is to ensure the effective protection of human rights in practice and no regression on such protection. There is a lack of such an assessment, e.g., in relation to several measures mentioned in this report.<sup>ix</sup>

In light of human rights pursuant to non-incorporated conventions, the lack of assessment of law proposals should also be corrected. In certain policy areas, e.g. immigration policy, law proposals have been submitted to the Parliament without such an assessment (although compliance with ECHR was included).

Recommendation: Assess implementation of human rights in practice, avoid or mitigate any negative impact on human rights and assess law proposals in light of all human rights conventions.

#### 5: National Human Rights Mechanism for Follow-Up<sup>x</sup>

Through its inter-ministerial human rights committee, the MFA coordinates reporting to the UN. However, there is no overall human rights strategy in Denmark, and this specific mechanism is not effective at coordinating the implementation of UN recommendations and does not involve NGOs regularly.

Recommendation: Establish an effective national mechanism for reporting and follow-up that is based on a national, coordinated human rights strategy and that ensures effective NGO participation.

## B) Implementation of Human Rights in Practice

### Cross-cutting Issues

#### 6-10: Equality and Non-discrimination

##### 6: Legal Obligation to Prohibit Discrimination<sup>xii</sup>

On the labour market in Denmark discrimination is prohibited on all grounds, whereas in other sectors of society (e.g., education), discrimination is still only prohibited on some grounds (e.g., gender, race and ethnicity, and disability). As a result, we see both an inability to deal properly with multiple and intersectoral discrimination and a lack of protection for marginalised persons, when the discrimination occurs on grounds not yet prohibited, e.g., age and gender identity and expression.

Moreover, as documented in this report and by NGOs in the UPR Coalition,<sup>xiii</sup> discrimination also exists even on grounds that are prohibited, e.g., relating to ethnicity.

Recommendation: Adopt comprehensive anti-discrimination legislation prohibiting differential treatment, which is directly or indirectly based on all the prohibited grounds of discrimination, and an action plan to ensure in practice the enjoyment of human rights on equal footing.

##### 7: Gender Mainstreaming<sup>xiv</sup>

Denmark has supported UPR recommendations to integrate equality into all policies and activities. However, gender mainstreaming is given much too little attention in legislation and practice. A step backwards was taken in 2019 when the Minister for Equal Opportunities promoted a change of the Gender Equality Law that reduces key obligations for municipalities. This permits non-binding targets for gender equality and reporting on this only every third year.<sup>xv</sup> Most municipalities have in fact no gender mainstreaming strategy.

Recommendation: Ensure that laws and policies have no negative consequences on the equality of women and men and that public authorities (local and national) conduct gender assessment properly, and allocate sufficient resources to gender mainstream policies and services.

##### 8: Discriminatory Ghetto Legislation<sup>xvi</sup>

Neighborhoods in Danish cities can be designated as “vulnerable” according to specific criteria, and further as “ghettos” if more than 50 percent of the residents are immigrants or descendants of immigrants from non-Western countries.<sup>xvii</sup> “Hard ghettos” are areas that have been classified as “ghetto” four years in a row.

The ghetto legislation includes requirements targeting ethnic communities. By way of example, **the law obliges “hard ghettos” to reduce public housing stock to no more than 40%** in 2030 and to make them available for redevelopment. Under certain circumstances local police may request double punishment for crime in zones of the designated “ghettos.”

**Using the term “ghetto” for neighborhoods is discriminatory and further stigmatizes those** already living at the margins of Danish society.

Persons with non-Western background risk eviction from housing through no fault of their own, just because their area exceeds the above-mentioned target.<sup>xvii</sup>

Recommendation: Cease **using the term “ghetto”** for disadvantaged housing areas and ensure the absence of discrimination when solving social inclusion and housing issues.

#### 9: Discriminatory Central Personal Registry (CPR)<sup>xviii</sup>

In Denmark each person has a unique civil registration (or CPR) number.<sup>xix</sup> This registry operates with the main principle that a child is registered with a mother and a father (an exemption can be made to register two mothers). A child cannot be registered with two fathers.

This poses two fundamental problems for same-sex parents. Firstly, the exemption is not communicated to other systems that draw their data from the CPR registry (e.g., the public school communication system “Aula” has registered half of all mothers in same-sex couples as the “**father**” or “**other**”). Secondly, fathers in same-sex couples are not registered with their legal gender.

Recommendation: Amend the CPR law to allow parents to be identified by their legal gender and ensure implementation of this in all public systems that draw data from the registry.

#### 10: Legal Gender Change for Youth<sup>xx</sup>

In August 2020 the government took initiatives to enhance the protection of LGBT persons,<sup>xxi</sup> including considering the possibility for children under 18 to conduct legal gender change. However, no law proposal has yet been presented to the Parliament. There should be no minimum age for gender change, as long as the person exercising parental authority approves the change.

Recommendation: Amend the law to allow every person under the age of 18 to change their legal gender.

#### 11: Resource Allocation<sup>xxii</sup>

Denmark does not mobilise enough resources to ensure that infrastructure and services are in place to enable everyone to enjoy all human rights. When formulating economic and fiscal policy decisions, the amount of resources required to guarantee human rights for disadvantaged groups is not always included in the priorities.

As documented in this report, more resources are required to address several issues, such as poverty, support services for refugees and social housing for marginalized groups.

Recommendation: When economic and fiscal decisions are made, allocate sufficient funds for human rights, especially avoiding too few resources that can mean retrogression and discrimination for marginalised groups.

#### 12: Business and Human Rights<sup>xxiii</sup>

The business sector should contribute to better protection of human rights in their value chains and business relationships, both at home and abroad. Despite the mandate of the Mediation and Complaints-handling Institution for Responsible Business Conduct and the Financial Statements Act requiring companies to report on CSR, Denmark does not impose a legal obligation on companies and investors to adhere to the UN Guiding Principles on Business and human Rights (UNGPs).

Recommendations:

- Introduce legislation requiring companies and investors to respect human rights and prevent environmental harm, including by carrying out due diligence to prevent any harm.
- Establish corporate liability for human rights and environmental harm.
- Amend the Danish Financial Statements Act to include a clear reference to the UNGPS, including an emphasis on due diligence reporting.
- Lower company size for mandatory reporting on responsible business conduct.

### 13: Transparency of Funding of Political Parties<sup>xxiv</sup>

Trust is a central feature of the functioning of the Danish society. Denmark is consistently ranked among the top five least corrupt countries in the world.<sup>xxv</sup> However, GRECO<sup>xxvi</sup> has criticized Denmark for lack of transparency in the financing of political parties. For donations to political parties above a threshold of DKK 21,400 (per 2020), the identity of the donor must appear in the party's annual accounting, made available to the public. Donors giving less than this amount are guaranteed anonymity. However, the anonymity of these lower-amount donors is disconcerting. Likewise, for donations above the threshold, the total amount of donations given by each donor is not made public.<sup>xxvii</sup>

These two shortcomings in transparency are potential risks for corruption, as donors may exert undue influence on the political system. There is an urgent need for a clear framework to guarantee transparency to strengthen the integrity of political parties and good governance.

Recommendations:

- Amend legislation to comply with the CoE's Committee of Ministers Rec. (2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns<sup>xxviii</sup> as soon as possible.
- Introduce a ban on anonymous donations to individual election candidates.
- Amend the Accounts of Political Parties Act by adding an obligation upon political parties to report the total value of donations provided by each donor above the threshold.<sup>xxix</sup>
- Provide an independent monitoring mechanism in line with article 14 in Rec. (2003)4.

## Civil and Political Rights

### 14: Pre-trial Detention<sup>xxx</sup>

Denmark has traditionally used pre-trial detention more extensively than neighbouring countries. Over the last five years, the proportion of pre-trial detainees has increased from 33.7% (2015) to 38.2 % (2020) of the total prison population.<sup>xxxi</sup> The first weeks of detention entail increased vulnerability for the detainee. Uncertainty as to the length of pre-trial detention also has psychological consequences. Thus, detention can have severe psychological consequences for the detainees, especially for children.

Recommendation: Review the practice of pre-trial detention, with specific focus on minors and initiate efforts to ensure that pre-trial detention only is used as a measure of last resort.

### 15: Solitary Confinement as a Disciplinary Measure<sup>xxxxii</sup>

The Danish Administration of Justice Act (AJA) permits isolation of adult inmates and children for up to four weeks as a disciplinary sanction. Such measures have risen dramatically over the last years. In 2019, 4,422 inmates were subjected to this of whom 705 were in solitary confinement for more than 14 days, which is in violation of the Mandela Rules.<sup>xxxxiii</sup>

DIGNITY and other organisations have documented the negative health consequences of prolonged isolation<sup>xxxxiv</sup> and criticized the significant increase in the use of solitary confinement as a disciplinary measure that is caused by various amendments to the AJA during the last years (especially the amendment to the AJA in August 2016) which resulted in higher

punishment level.<sup>xxxv</sup> By way of example, disciplinary punishment for illegal possession of mobile phones was tripled to the following in closed prisons: 15 days in isolation first time; 21 days second time; and 28 days in isolation third time.

Recommendation: Abolish the use of solitary confinement towards children and implement its use as a disciplinary sanction in accordance with the Mandela Rules.

## 16: Prohibition of Inhuman or Degrading Treatment

Conditions at Ellebæk<sup>xxxvi</sup>

Rejected asylum seekers are held in administrative custody at Ellebæk, which is run by the Department of Prisons and Probation, according to prison-like rules, although the detainees are neither accused of nor condemned for a crime. Ellebæk can host 136 detainees and will be expanded with another 56 soon. By way of example, the detainees are not entitled to possess a mobile phone, and if they do so they will be punished with isolation for 15 days as in Danish prisons.

Twice, the Danish Ombudsman has strongly criticized the conditions.<sup>xxxvii</sup> The news channel TV2 broadcasted a documentary about Ellebæk during which a prison guard and union representative described the institution as a "forgotten, closed prison" and stated that it is not a place for anyone to live.<sup>xxxviii</sup> The pastor at Ellebæk has also described the conditions as inhuman.

CPT has strongly criticized Ellebæk, most recently in January 2020, and concluded that the conditions were "unacceptable". Civil society has submitted criticism of the conditions to various international bodies, including the prohibition about mobile phones, but very little has changed.<sup>xxxix</sup>

Recommendation: Review the conditions at Ellebæk, remove the prison-like regime, and ensure compliance with the obligation to prevent inhuman and degrading treatment.

## 17: Administrative Revocation of Danish Citizenship<sup>xl</sup>

The Minister of Immigration and Integration is entitled to revoke Danish citizenship from citizens with double citizenship, who live in Syria, if they have committed acts that threaten national security, such as by joining a terrorist organisation<sup>xli</sup> (**alleged "foreign fighters"**). So far, the law has been used five times. According to the law, the affected person has four weeks to decide whether to appeal the decision to the courts, which has happened in three of five cases. However, there is a lack of judicial control because the law does not require that decisions are automatically tried in court.

Recommendation: Amend the law to ensure due process rights and automatic recourse to the courts.

## 18: Face Coverings in Public<sup>xlii</sup>

It is illegal to wear face coverings in public, with a fine of 1,000 DKK for a first offence, increasing to prison sentence for subsequent offences.<sup>xliii</sup> Notably, religious headdress is not exempted from this law. The ban was in fact expressly introduced to prevent the wearing of niqabs and burkas in public spaces. In any case, forbidding religious headdress is clearly a violation of religious freedom, and in many cases covering of the face can be an expression of opinion or conviction.

Recommendation: Repeal the ban and amend the Criminal Code to allow face covering in public.

## Economic, Social and Cultural Rights

### 19: Adequate Housing<sup>xliv</sup>

There is a significant shortage of affordable housing in larger Danish cities, as such housing is pushed more and more to the outskirts of the cities, as recently criticized by the ECSC Committee.<sup>xlv</sup> This is due both to less public investment and to the acquisition of property by private investors.

**Entire blocks in “ghetto areas” (see Recommendation 8)** are being converted into private and co-operative housing, which further increases the obstacles for people of low income to find adequate housing. The current tenants are offered alternative accommodation, but they have no say as to its location, quality, or cost.

For receivers of the integration benefit, it is challenging to ensure adequate housing.<sup>xlvi</sup>

Recommendation: Increase the stock of affordable and adequate public housing units by means of higher public investments and a better regulatory framework for private investors.

### 20-21: Equal Pay and Access to Employment

#### 20: Equal Pay<sup>xlvii</sup>

The gender pay gap still exists in Denmark and most recent figure stands at 14,5%.<sup>xlviii</sup> The reasons for this unfair situation relate to high level of labour market segregation, discrimination, high percentage of women working in the public sector and continued unequally shared care responsibilities.

We are concerned by very little wage transparency preventing women from checking whether their right to equal pay is violated. It is correct, as mentioned by Denmark in its midterm report (rec. 120.154) that Statistics Denmark provide employers with pay statistics, but the statistics are not available for individuals.

The principle of equal pay applies both to equal work and to work of equal value. **However, we are concerned that “work of equal value” is neither described nor defined** in the Act on Equal Pay.

Finally, gender-biased pay concepts are often used when comparing men’s and women’s wages. The Danish Pay Commission emphasised in 2010 that only a gender-neutral pay concept (e.g. standardised hourly earnings) should be used.

Recommendation: Take further steps to bridge pay gap by changing the legislation to ensure transparency on wages; use of a gender-neutral concept of wages and define “work of equal value”.

#### 21: Access to Employment<sup>xlix</sup>

Whereas the employment rate for the Danish population as a whole (with fixed place of employment) is now at 74%,<sup>I</sup> only around 54% and 58% of immigrants and descendants, respectively, from non-Western countries are employed.<sup>II</sup> This over-representation may be due to less education<sup>III</sup>, language barriers, less job experience (especially among women) and poorer general health. This over-representation will worsen with the COVID-19 crisis, as documented by EAPN.<sup>IV</sup>

Recommendation: Further increase access to employment for immigrants, using more support programmes for better integration into the labour market.

### 22-23: Adequate Standard of Living

#### 22: Official Poverty Threshold and Non-discriminatory Approach to Child Poverty<sup>liv</sup>

The national poverty threshold was abolished in 2015 and has not yet been re-introduced, despite the obligation to do so according to SDG 2.1 In 2016, a '**benefit ceiling**', or a maximum on the total amount of social benefits received by a family, was introduced, and this affects strongly persons and families receiving unemployment benefits and self-support subsidy and return-home benefit.

Fewer social benefits for vulnerable families increases directly child poverty, and especially for refugee families. The statistics for 2018 show an increase to 64,500 of children in families that live below the OECD poverty threshold. Since early 2020, though, the government has taken measures to mitigate the rise in child poverty by introducing a temporary child benefit for persons who have children age of 0-14 and who are affected by the '**the benefit ceiling**'.

Recommendation: Re-introduce an official national poverty threshold based on the OECD definition; abolish the benefit ceiling; and apply a non-discriminatory approach when taking future steps to tackle child poverty in Denmark.

### 23: Efforts to tackle poverty<sup>lv</sup>

In 2019, 16.3% of the adult Danish population were at risk of poverty and social exclusion, according to the OECD definition of poverty. This corresponds roughly to the level prior to the crisis in 2008.<sup>vi</sup> Comparing 2019 to 2010, a higher percentage of the population now live in financial insecurity, are overburdened by housing costs, and generally find it difficult to make both ends meet.<sup>vii</sup> This is expected to worsen with post-COVID 19 economic downturns. Moreover, the Penal Code now criminalises conduct associated with situations of poverty, such as begging.

Recommendation: Increase efforts to decrease rates of relative and absolute poverty and socio-economic inequality, and ensure no further regression on social protection, and ensure that no disproportionate burden caused by COVID-19 lands on persons already at risk of poverty.

## 24-27: Health Care

### 24: Coercion at psychiatric institutions<sup>viii</sup>

The use of coercion on adults and children is widespread and increasing at psychiatric institutions, e.g. mechanical restraint (belt), involuntarily admissions and chemical restraint.<sup>ix</sup> Almost 6000 psychiatric patients are submitted to coercion each year, which is one quarter of all inpatients. This situation has not changed the last 20 years.<sup>x</sup> Danish civil society and international bodies have long expressed serious concerns, and in September 2020 also the European Court of Human Rights, about the risk of violation of the prohibition of torture and other forms of ill-treatment.<sup>xi</sup>

Recommendations:

- Amend the Psychiatric Act in order to significantly limit the use of coercion and use it only as a last resort for as short a time as possible.
- Prevent coercion that can result in inhuman and degrading treatment.
- Ensure that one method is not replaced by another.
- Provide training to professionals as to how to prevent cruel and degrading treatment.
- Ensure that patients are never mechanically restrained due to the lack of capacity at a secure psychiatric hospital.

### 25: Transgender persons<sup>xii</sup>

Transgender persons do not enjoy the right of the process of physical gender transition, but only as a privilege to be granted by a panel of health professionals. It would greatly benefit the well-being of such people if hormone-replacement therapy and surgical intervention were a right to be effectuated after a professional consultation. Moreover, many people who wish to undergo this surgery are kept waiting for years because the law explicitly excludes this surgery from the waiting-time guarantee for medical treatment.<sup>xiii</sup>

Recommendation: Amend the law to make access to gender-affirming surgery a right covered by the maximum waiting-time guarantee.

#### 26: Intersex persons<sup>lxiv</sup>

Some intersex children are subjected to unnecessary medical and surgical interventions that can be undertaken without consent from the child when below 15. Such interventions are typically irreversible and can cause severe, lifelong physical and psychological suffering.

Adult intersex people, who agree with the sex assigned at birth, have immediate access to hormone treatment and surgery. However, those who disagree with the sex assigned at birth are considered to be transgender and therefore have to undergo months of medical and even psychological evaluation when accessing treatment to align their body with their **gender identity. This may greatly affect the individual's physical and psychological health and well-being.**

Access to justice for intersex people may be barred by the ordinary statute of limitation rules. Moreover, complaints by **intersex people about previous operations and treatments are administratively dealt with on the basis of the "specialist and reasonableness rule"**, that implies that admissibility of the complaint will be assessed by health experts. The traditional medical view on intersex may be pathologizing and supporting the notion that intersex bodies can and should be made to fit social expectations for male or female bodies. This may result in the complaint being rejected.

Recommendations:

- Amend legislation to ensure that all non-urgent medical interventions are postponed until a child is mature enough to participate in meaningful decision-making, and to give their full, free and informed consent.
- Take necessary legislative measures to remove statutes of limitations and **stop the application of the "specialist-and reasonableness rule".**
- Educate health care professionals on human right aspects of intersex health, biological and physical diversity, and the consequences of unnecessary surgical and other medical intervention.
- Adopt legislative, administrative, and other measures to ensure adult intersex people equal access to gender-affirming treatment that relates to their gender identity rather than to their legal sex.

#### 27: Non-refundable transport expenses<sup>lxv</sup>

Traumatized refugees, including victims of torture, can receive treatment at various rehabilitation centers in Denmark, including at **DIGNITY's** and OASIS' centers for rehabilitation, if their medical doctor refers them. However, some refugees are not entitled to reimbursement of their expenses for transportation to the centers, and they cannot afford to pay for it themselves. Unfortunately, this means that some traumatized refugees do not receive treatment and do not have effective access to health care.

Recommendation: Amend the law so that refugees who need the rehabilitation services are entitled to reimbursement for transportation between home and service provider.

#### 28: Education<sup>lxvi</sup>

Especially for children from disadvantaged socio-economic backgrounds, there is a gap in what they attain in education, relative to other children. A study in 2018 concluded that 9<sup>th</sup> grade students from the upper middle class score 30% better in exams than children from poorer households.<sup>lxvii</sup> Moreover, among all low-achieving students, there are almost 3 times as many who are foreign-born than those who are non-immigrant.<sup>lxviii</sup>

Recommendation: Narrow educational attainment gaps by focusing on students with immigrant backgrounds and socio-economically disadvantaged students.

## Additional Rights of Specific Groups

### 29: Violence against Women<sup>lxix</sup>

The high number of cases related to gender-based violence, which disproportionately affects women and girls and is rooted in unequal power relations between women and men, continues to be of great concern. Gender-based violence has specific characteristics and is often committed by closely related male persons and consequently, difficult – sometimes impossible - to escape. It may even be life-threatening for women.

The National Action Plans aiming at combatting gender-based violence does not acknowledge the gendered nature of this type of violence and uses a gender-neutral language such as “violence in close relations” and “partner violence”. <sup>lxx</sup> This choice of language hampers the efforts to prevent violence against women.

Femicide committed by a partner is the single most common homicide in Denmark. The high level of femicides remains unchanged, while other types of homicides decrease.<sup>lxxi</sup>

Violence specifically against migrant women, whose residence permit in Denmark may be temporary, is magnified due to their social isolation, economic dependence on the abuser, uncertainty regarding rights and lack of awareness regarding possibilities for help.<sup>lxxii</sup> Reporting of the violence is rare, as the women fear that the authorities may not believe that they have been exposed to violence.

Recommendation: Take further steps to address violence against women by using a gender-based concept of violence, as internationally acknowledged, by addressing the high levels of femicides committed in Denmark and by adopting a more holistic approach in strategies towards migrant women exposed to violence.

### 30-33: Children

#### 30: The Juvenile Delinquency Board (JDB) for children 10-14 years<sup>lxxiii</sup>

In January 2019, the Juvenile Delinquency Board (JDB) was established pursuant to the Youth Crime Act with the overall aim to combat and prevent youth criminality. There is now a JDB in each police district, consisting of one judge, one representative from the police and one from the social authorities. JDB has a mandate for children above the minimum crime age of 15 who have been convicted of a crime, and for children 10 - 14, contingent on three criteria, including suspicion of having committed serious crime.

Children 10-14 years, who are no longer referred directly to the social authorities are at risk. Firstly, lack of legal guarantees, as the child is not granted the same rights as in a court of law, and the principle of the presumption of innocence is not adhered to, since a child can be referred to the board based solely on suspicion. Secondly, international norms call for *inter alia* effective and child-friendly procedures.<sup>lxxiv</sup> However, vulnerable children with reduced cognitive abilities may not properly understand what is happening, and there is a risk that they become overwhelmed and even traumatized by the meetings.

Recommendation: Dismantle the Juvenile Delinquency Board for children aged 10 to 14 and return its mandate to the social authorities.

#### 31: **Children's knowledge of their rights**<sup>lxxv</sup>

Recent surveys by UNICEF conclude that 45 % of children in Denmark have no knowledge of the CRC.<sup>lxxvi</sup> Therefore, the existing initiatives are not sufficient, and more efforts are needed to teach children about their rights.

Recommendation: Amend relevant legislation (i.e., Law on Public Schooling, para 1(3), and guidelines for teachers) to oblige teaching of **children's rights** in schools, and introduce an annual campaign week on **children's rights**.

### 32: Children's rights and digital behavior<sup>lxxvii</sup>

Young people spend more and more time on social media and on digital platforms, but without knowledge of the algorithms and other aspects of digital technology and the digital information they leave through cookies. There is a growing need for strategies at schools on correct behavior and attitudes in the digital world, as well as a need for digital awareness from the pre-school age.

Recommendation: Take legislative measures to oblige schools to adopt a digital strategy and to introduce compulsory social media lessons from pre-school on behavior, attitudes, awareness of algorithms in the digital world.

### 33: Telephone helplines for children open 24/7<sup>lxxviii</sup>

Telephone helplines help and advice thousands of vulnerable children in crisis. Unfortunately, many inquiries from children remain unanswered, mainly because the children call out of opening hours. The helplines need further financial resources to extend their opening hours, to raise further awareness and to engage more volunteers in counselling.

Recommendation: Ensure nationwide telephone helplines open 24 hours-a-day to help and advice vulnerable children in crisis.

## 34-41: Refugees and Asylum seekers

### 34: Family reunification for refugees on temporary protection status<sup>lxxix</sup>

Amendments to the Aliens Act in 2015 and 2016 limit family reunification for persons granted temporary protection status pursuant to Article 7(3) of the Aliens Act. They are only allowed such reunification after three years' residence. Such measures endanger the right to family life that includes an obligation to ensure that family life can be maintained, and children and spouses protected.

Recommendation: Amend the Aliens Act to ensure that family life can be maintained, that children and spouses are protected, and that refugees who flee to Denmark from a precarious situation in their home country have the right to family reunification immediately after receiving a residence permit.

### 35: Family reunification for children 15-18 years<sup>lxxx</sup>

A child's reunification with its family is generally only available for children under the age of 15. There are exceptions, but it is very difficult to be approved for family reunification for children above 15. According to the Danish Immigration Service, a child above the age of 15 is normally assumed to have less need to live with its parents.

Recommendation: Amend the Aliens Act, section 9 (2), to raise the age limit for family reunification for children to 18 years.

### 36: Equal treatment of LGBT+ refugees in cases of family reunification<sup>lxxxi</sup>

For unmarried couples to apply for family reunification, the Aliens Act requires cohabitation for at least 18 months prior to the application. This also applies to same-sex partners. Several applications for family reunification by LGBT+ refugees have been rejected due to lack of documented cohabitation in their country of origin. However, for LGBT+ refugees, it is most often not possible for same-sex partners to live together in their country. Hence, the requirement of cohabitation leads to indirect discrimination of LGBT+ refugees on grounds of sexual orientation or gender identity.<sup>lxxxii</sup>

Recommendation: Ensure equal treatment of LGBT+ refugees in relation to family reunification. Same sex partners, or persons regarded as such in the country of origin, should not have to live up to the requirement of cohabitation, if cohabitation has not been possible in that country.

### 37: Temporary stay<sup>lxxxiii</sup>

Originally refugees were granted protection and integration into Danish society for five or seven years. In 2019, however, the "Paradigm shift" law was passed, which now means all permits are given "with the aim of temporary stay." Formerly this was "with the aim of permanent stay".

Refugees are therefore now only granted temporary stay for one or two years, to be reviewed every second year, and which can be revoked at any time. This is also the case for UN resettlement and Convention refugees.

Recommendation: Secure durable solutions for refugees by ensuring long-term protection for them and their families.

#### 38: LGBT asylum seekers<sup>lxxxiv</sup>

Most LGBT asylum seekers come from countries where homosexuality is a criminal offense and where there is no documentation for their persecution. The Danish practice regarding these asylum seekers is still deficient.

The Danish authorities often do not recognize persecution from non-state actors towards LGBT asylum seekers as grounds for international protection, and they expect LGBT asylum-seekers to be able to express themselves as Northern Europeans about their sexual orientation and gender identity. Hence, the authorities do not fully recognize what is stated in the UNHCR Guidelines on SOGI-related claims (2012), namely that "**Discrimination, hatred and violence in all its forms can impact detrimentally on the applicant's capacity to present a claim. Some may be deeply affected by feelings of shame, internalized homophobia and trauma, and their capacity to present their case may be greatly diminished as a consequence.**"

Recommendation: Implement asylum procedures with adequate information and guidelines, and provide training for the asylum interviewers, including on topics such as sensitivity to **LGBT asylum seekers' difficulties in revealing and talking about issues that are taboo and the object of strong cultural and religious norms.**

#### 39: Social benefits for refugees<sup>lxxxv</sup>

In 2019, Denmark further tightened the criteria to receive full financial aid for integration. Now, these integration benefits (**the integration benefit has changed name to "self-supporting and return benefit"**)<sup>lxxxvi</sup> are much decreased for people who have not lived in Denmark at least nine of the past ten years and have not had full-time employment for at least two-and-a-half years the past ten years. The target group is mainly refugees and their families.<sup>lxxxvii</sup>

Likewise, refugees and others who have not lived in Denmark all their lives only gradually earn the right to child benefits for children below 18 years. This combination of low social benefits increases the risk of child poverty (see above).

Recommendation: Increase substantially social benefits for refugees, granting them the same benefits as Danes and abolish the graduated benefits for children.

#### 40: Revocation of residence permits<sup>lxxxviii</sup>

Since 2019, when revoking asylum status, Danish law no longer attaches value to attachment to Denmark (i.e. family, language, education, work, etc.).<sup>lxxxix</sup> The Immigration Service has reviewed 1,300 Somali refugees' cases and revoked 950 permits.<sup>xc</sup> However, at the Refugee Appeals Board, more than 50% of the cases were overturned or sent back to first instance.

In December 2019, the Appeals Board made a principle decision that Damascus, Syria, is safe for people without a personal asylum motive. So far, Denmark is the only European country to draw that conclusion.

UN resettlement and Convention refugees are not exempted and also risk having their residence permits revoked.

Recommendation: Ensure in decisions about revocation of residence permits, that the assessment is in accordance with international human rights standards and that proper consideration is given to attachment to Denmark and with emphasis on durable solutions for refugees.

#### 41: Interpreters<sup>xcii</sup>

Asylum cases and court cases against foreigners are very dependent on professional and reliable interpreters. However, in Denmark there is no requirement for formal training or certification as an interpreter. In fact, there are no training programs for most relevant languages.

Moreover, since July 2018 patients in the Danish health care system must pay for their own interpreter if they have lived in the country for more than three years.<sup>xcii</sup> This has a negative effect on easy and equal access to health services, as documented by DRC and DIGNITY in shadow report to ESCR Committee<sup>xciii</sup> and by the Danish Institute for Human Rights.<sup>xciv</sup>

Recommendations:

- Ensure an adequate quality of interpretation in all institutions and relevant training of interpreters.
- Abolish the requirement that some patients must pay a fee for interpretation when accessing health care.

Annexes:

1. Short description of the organisations in the UPR Coalition.
2. Information about intersex persons in Denmark.
3. Information about asylum seekers in Denmark.

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<sup>i</sup> See Annex 1 for a short description of each organization in the UPR Coalition.

<sup>ii</sup> This issue relates to SDG 16. Previous UPR recommendation during 2nd Cycle: Rec. 120.11-14 concerning ratification of International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and recognition of the competence of its Committee (supported).

<sup>iii</sup> This issue relates to SDG 16. Previous UPR recommendations during 2nd Cycle: Rec.120.5-10, Advance the ratification of the pending international instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members

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of Their Families (ICPPED) (noted), Rec. 120.1-2, Consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (noted).

<sup>iv</sup> As recommended by the ESCR Committee Concluding Observations 2019.

<sup>v</sup> Ratification is also lacking with regards to two specific optional protocols within the EU regarding rights of intersex persons: Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings and Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research.

<sup>vi</sup> This issue relates to SDG 16. Previous UPR recommendations during 2nd Cycle: Rec. 120.20, Incorporate the human rights conventions into national law (noted). Further UPR recommendations during 2nd Cycle: Rec. 120.21, 120.22 (noted).

<sup>vii</sup> Incorporation has been the recommendation of all UN Treaty Bodies, including the HRC, CAT, CRC and ESCR Committee.

<sup>viii</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 16.

<sup>ix</sup> Specifically, with regards to economic and social rights, the ESCR Committee in the same spirit critically noted last year that “numerous retrogressive measures had been introduced towards refugees”, see Concluding Observations, para 12 (2019).

<sup>x</sup> Recommendation during UPR 2nd Cycle 120.46-47 (noted). This issue relates to SDG 16.

<sup>xi</sup> This issue relates to SDG 5 and 10. Furthermore, it relates to CCPR art. 2(1), CESCR art. 2(2), CERD art. 1(1), CEDAW art. 2 and CRC art. 2. Previous UPR recommendations during 2nd Cycle: Rec 120.74, Counter discrimination and promote a more inclusive society (supported). Other related UPR recommendations during 2nd cycle: 120.100, 120.37, 120.59, 120.83, 120.91, 120.95, 120.96, 120.146, 120.150, 120.147, 120.172, 120.90, 120.142, 120.173, 120.36, 120.86, 120.57 (supported), 120.101(supported/noted), 120.68, 120.30, 120.65, 120.66, 120.85, 120.76, 120.26, 120.64, 120.67 (noted).

<sup>xii</sup> See e.g., MS-Action Aid: Inequality in Denmark (2019): [https://www.ms.dk/sites/default/files/filarkiv/ulighedsrapport\\_december\\_2019.pdf](https://www.ms.dk/sites/default/files/filarkiv/ulighedsrapport_december_2019.pdf)

<sup>xiii</sup> This issue relates to SDG 5 and CEDAW art. 3. Previous UPR recommendations during 2nd Cycle: Rec 120.69, Adopt the necessary legislative measures to ensure the integration of the gender perspective in all public policies at all levels of government, and prohibit and punish discrimination based on gender (supported) and Rec 120.71, Continue its efforts to further mainstream gender equality in the public sphere as well as to combat domestic violence to protect the rights of women in the private sphere (supported).

<sup>xiv</sup> Previously, reporting obligation every second year.

<sup>xv</sup> No recommendation on this matter during UPR 2nd Cycle. This issue refers to SDG 10. The issue is mentioned in Concluding Observations of ESCR Committee (2019), para 52 (a) and (d): “remove the definitional element of a ‘ghetto’ with reference to residents from ‘non-Western’ countries, a discriminator on the basis of ethnic origin and nationality” and “repeal all provisions that have a direct or indirect discriminatory effect on refugees, migrants and residents of the ‘ghettos’.”

<sup>xvi</sup> Currently, some 28 neighborhoods are classified as "ghettos", see <https://bl.dk/politik-og-analyser/temaer/hvem-er-paa-ghettolisten/>

<sup>xvii</sup> Already, some persons, who were evicted from their apartment because they refused to leave, have taken their case to court and claimed that their eviction was in violation of the prohibition against discrimination. Pending court cases involve persons from the communities Birkeparken, Møljnerparken, and Nøjsomhed (<https://sn.dk/Helsingør/Beboere-i-ghetto-smidt-ud-lejere-peger-paa-diskrimination/artikel/1359984>)

<sup>xviii</sup> No recommendation on this matter during UPR 2nd Cycle. This issue refers to CCPR art. 2(1) and SDG 10 and 16.

<sup>xix</sup> Regulated by Law 1297 of Loven om det Personlige Centralregister.

<sup>xx</sup> This issue relates to SDG 3 and 10. Previous UPR recommendations during 2nd Cycle: Rec. 120.141, Allow minors to change their legal gender by allowing the person exercising parental authority over the minor to file an application. (noted)

<sup>xxi</sup> Frihed til Forskellighed – styrkede rettigheder og muligheder for LGBTI-personer (August 2020).

<sup>xxii</sup> This issue relates to ICESCR art. 2(1) and SDG 10.

<sup>xxiii</sup> No recommendation on Corporate Social Responsibility (CSR) during UPR 2nd Cycle. This issue relates to the SDG 8.

<sup>xxiv</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 16 and Rec (2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (available at <https://www.coe.int/en/web/greco>), adopted by the Council of Europe. See specifically article 8, 11, 12, 13b, 14 and 16 and more generally - Guiding Principle 15 (financing of political parties and election campaigns).

<sup>xxv</sup> See the Corruption Perception Index (CPI), see available at <https://www.transparency.org/en/cpi/2019/results/dnk>

<sup>xxvi</sup> The European Group of States against Corruption was established in 1999 by the Council of Europe (CoE) to monitor States' compliance with CoE's anti-corruption standards.

<sup>xxvii</sup> Pursuant to the Accounts of Political Parties Act (APPA), §3, section 2. It appears from GRECO's latest Evaluation Report (adopted by GRECO at its 83<sup>rd</sup> Plenary Meeting (Strasbourg, 17-21 June 2019), three of 14 recommendations for a new framework remain unimplemented. Denmark's deadline to submit information to GRECO regarding the status of pending recommendations was originally 30 June 2020, but due to COVID-19 it was extended to 30 September 2020. The 14 recommendations were mentioned in GRECO's

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Third Evaluation Round Report on Denmark on Transparency of Party Funding (2009) as adopted by GRECO at its 43<sup>rd</sup> Plenary Meeting (Strasbourg, 29 June-2 July 2009).

<sup>xxviii</sup> Specifically, article 8, 11, 12, 13b, 14 and 16 and more generally Guiding Principle 15 (financing of political parties and election campaigns).

<sup>xxix</sup> See Article 12 and 13 in Rec. (2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.

<sup>xxx</sup> This issue relates to SDG 16. Previous UPR recommendations during 2nd Cycle: Rec. 120.131 Introduce alternative measures to pre-trial detention for minors wherever possible, and develop clear rules for the treatment of minors in police custody and monitor their effective implementation in practice (supported).

<sup>xxxi</sup> <https://www.prisonstudies.org/country/denmark>

<sup>xxxii</sup> This issue relates to SDG 16, CAT art. 1 and 16 and CRC art. 37. Previous UPR recommendations during 2nd Cycle: Rec. 120.129, Review the detention in solitary confinement of persons under 18 years of age, to ensure that no child is held in ordinary prisons for adults (noted). Further UPR recommendations during 2nd Cycle: Rec. 120.133, 120.134, 120.135, 120.136 (noted).

<sup>xxxiii</sup> In 2019, the European Committee of Social Rights also concluded that Denmark is not in conformity with Article 17 of the 1961 European Social Charter on the grounds that children can be placed in solitary confinement for up to four weeks, see <https://rm.coe.int/rapport-dnk-en/16809cfba6>.

<sup>xxxiv</sup> Health studies extensively document the deleterious impact on health of solitary confinement, with physical, mental and social consequences. Solitary confinement need not be long (e.g. 15 days) for suffering to be inflicted. For instance, only a few days of isolation can result in problems of concentration, restlessness, failure of memory, insomnia, impaired sense of time, and inability to follow the rhythm of day and night, see DIGNITY Conference Paper 2017.

<sup>xxxv</sup> DIGNITY Conference Paper 2017 (Solitary Confinement in Danish Prisons), available at [dignity.dk](http://dignity.dk)

<sup>xxxvi</sup> This issue relates to SDG 16. Previous UPR recommendations during 2nd Cycle: Rec. 120.182 Ensure that the treatment of asylum seekers remains in accordance with the international conventions and protocols that Denmark has signed up to (supported).

<sup>xxxvii</sup> Report about Ellebæk, June 2019, available at [https://www.ombudsmanden.dk/find/inspektioner/alle\\_inspektioner/ud-laendingecenter\\_ellebaek/](https://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/ud-laendingecenter_ellebaek/)

<sup>xxxviii</sup> See TV2: <http://nyheder.tv2.dk/2019-03-10-afviste-sidder-indespaerret-i-ellebaek-i-op-til-halvandet-aar-det-her-havde-jeg-aldrig>

<sup>xxxix</sup> CPT report 2020 and Shadow report Danish civil society to CPT March 2019 available at <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-the-response-of-the-danish-authorities-to-the-report-on-the-2019-visit>

<sup>xl</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 10.

<sup>xli</sup> Law 1057 of 24 October 2019, see <https://www.retsinformation.dk/eli/ita/2019/1057>

<sup>xlii</sup> New recommendation; no recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 10 and 16.

<sup>xliii</sup> Law 717 of 15 August 2018.

<sup>xliv</sup> This issue relates to SDG 8 and 10, CESCR art. 11(1) and General Comments no. 4 and 7. Previous UPR recommendations during 2nd Cycle: Rec 120.172.

<sup>xlv</sup> ECSC Concluding Observation (2019), para 49: The Committee expresses concern at the shortage of affordable housing in the State party, which is exacerbated by the growing trend in property acquisition by private investors who, under the 1996 Act on Temporary Regulation of Housing Conditions, are authorized to increase rents up to the “value of the rented dwelling” (art. 11).

<sup>xlii</sup> See <https://menneskeret.dk/udgivelser/familier-paa-integrationsydelse>

<sup>xlvii</sup> This issue relates to SDG 5 and 8 and CEDAW art. 11 (1.d). Previous UPR recommendations during 2nd Cycle: Rec.120.154, Take further active steps to create equal opportunities for both men and women in the labour market, and to bridge the gender wage gap (supported).

<sup>xlviii</sup> VIVE (National research Center for Welfare), [www.vivie.dk](http://www.vivie.dk) and Statistics Denmark: <https://www.dst.dk/da/Statis-tik/emner/lelevilkaar/ligestilling/ligestillingswebsite#4>

<sup>xlix</sup> This issue relates to SDG 8 and 10 and CESCR art. 2 and 6. Previous UPR recommendations during 2nd Cycle: Rec. 120.172, Step up efforts to tackle structural discrimination faced by minority groups, non-citizens and refugees, especially with regard to employment, education, housing, health services, and access to justice. (supported) and Rec. 120.164, Strengthen the employment and education rate among refugees and migrants (supported).

<sup>l</sup> <https://www.statbank.dk/statbank5a/default.asp?w=1536>

<sup>li</sup> <https://www.statbank.dk/statbank5a/default.asp?w=1536>

<sup>lii</sup> Foreign-born adults are significantly less likely than Denmark-born adults to have a upper/post-secondary education (see <https://stats.oecd.org/index.aspx?DataSetCode=SHA#>)

<sup>liii</sup> European Anti Poverty Network (2020), ‘The impact of Covid-19 on people experiencing poverty and vulnerability’, <https://www.eapn.eu/the-impact-of-covid-19-on-people-experiencing-poverty-and-vulnerability-eapn-report/>.

<sup>liv</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 1 and CRC art. 26-27. See also recommendations 45+46 by the CESCR, 2019: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fDNK%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fDNK%2fCO%2f6&Lang=en)

- <sup>lv</sup> New recommendation; no recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 1. Note that in January 2000, the government established a commission with the purpose of re-evaluating the current system with specific focus on families.
- <sup>lvi</sup> Those most affected are between 20-39 years old, see <https://www.dst.dk/en/Statistik/Sdg/01-afskaf-fattigdom/delmaal-02/indikator-1> and [https://appss.eurostat.ec.europa.eu/nui/ow.do?dataset=ilc\\_peps05&lang=en](https://appss.eurostat.ec.europa.eu/nui/ow.do?dataset=ilc_peps05&lang=en); [https://ec.europa.eu/commission/presscorner/detail/en/STAT\\_16\\_3461](https://ec.europa.eu/commission/presscorner/detail/en/STAT_16_3461).
- <sup>lvii</sup> Population whose housing costs exceeded 40% of their disposable income [http://stats.oecd.org/OECDStat\\_Metadata/ShowMetadata.ashx?Dataset=HSL&ShowOnWeb=true&Lang=en](http://stats.oecd.org/OECDStat_Metadata/ShowMetadata.ashx?Dataset=HSL&ShowOnWeb=true&Lang=en).
- <sup>lviii</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 16 and CAT art. 1 and 16.
- <sup>lix</sup> May 2020 The Danish Health and Medicine Agency, Monitoring Report on Coercion in Denmark: Since adopted baseline there has been an increase or unchanged development in the generalized usage of coercion on adults and in children in Denmark. The total number of people affected by coercion remains well above the desired level as well. In two cases, the patients had apparently been under belt restraint for 10 and 13 months.
- <sup>lx</sup> 2019 The Danish Health and Medicine Agency (November) Monitoring Report on Coercion in Denmark and 2013 – data report on coercion in psychiatry 2001 to 2012.
- <sup>lxi</sup> CRPD-Committee, Concluding observations 2014; The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 2020; Committee against Torture Concluding observations 2016; Human Rights Committee 2016. The European Court of Human Rights have recently reviewed the matter in the case of Aggerholm v. Denmark and concluded that Denmark had violated article 3
- <sup>lxii</sup> This issue relates to SDG 16. Previous UPR recommendations during 2nd Cycle: Rec.120.101 Ensure equal access to public health for lesbian, gay, bisexual and transgender persons, removing existing legislative barriers for access to gender reassignment-related treatments (supported/noted).
- <sup>lxiii</sup> LBK, Law no. 657 of 06/28/2019, § 21.
- <sup>lxiv</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 3 and CAT article 16; ICCPR art. 7 and CRC Art. 37. See Annex 2 for further information about the situation for intersex persons in Denmark.
- <sup>lxv</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 10 and 16, CESCR art 2(2), 10 and 12. See ESCR Committee (2019), para 26: Ensure that refugees have adequate access to health-care services, including by providing free interpretation or reimbursement of transportation costs, as needed.
- <sup>lxvi</sup> This issue relates to SDG 4 and ICESCR art. 13. Previous UPR recommendations during 2nd Cycle: Rec. 120.157, Ensure continuous schooling of children following the decision on placement in alternative care (supported) and Rec. 120.180, Ensure that asylum seekers and children of refugees receive the same quality of education as other children in Danish schools (supported).
- <sup>lxvii</sup> Arbejderbevægelsens Erhvervsråd. (2018). Den sociale arv afspejler sig tydeligt i børns karakterer. [https://www.ae.dk/sites/www.ae.dk/files/dokumenter/analyse/ae\\_den-sociale-arv-afspejler-sig-tydeligt-i-boerns-karakterer.pdf](https://www.ae.dk/sites/www.ae.dk/files/dokumenter/analyse/ae_den-sociale-arv-afspejler-sig-tydeligt-i-boerns-karakterer.pdf). See also <https://www.oxfam.org/en/research/power-education-fight-inequality>.
- <sup>lxviii</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1584545567722&uri=CELEX%3A52020SC0503>.
- <sup>lxix</sup> This issue relates to SDG 5, CEDAW and the Istanbul Convention. Previous UPR recommendations during 2nd Cycle: Rec.120.72, Continue progress to increase gender equality and protections for women and girls who encounter violence including enhanced implementation of Denmark's existing legal and policy frameworks (supported). Further UPR recommendations during 2nd Cycle: Rec. 120.113, 120.110, 120.108, 120.109, 120.106, 120.105 (supported).
- <sup>lx</sup>[https://mfvm.dk/fileadmin/user\\_upload/MFVM/Ligestilling/Andre\\_dokumenter/Handlingsplan\\_til\\_bekmpelse\\_af\\_psykisk\\_og\\_fysis\\_k\\_vold\\_2019\\_-2022\\_2\\_.pdf](https://mfvm.dk/fileadmin/user_upload/MFVM/Ligestilling/Andre_dokumenter/Handlingsplan_til_bekmpelse_af_psykisk_og_fysis_k_vold_2019_-2022_2_.pdf)
- <sup>lxii</sup> A study of homicides in Denmark the past 25 years (1992-2016), published in 2020, see [https://pure.au.dk/portal/en/projects/drab-i-danmark-19922016\(059c5a82-e4e6-4588-918f-d03bc101b718\).html?](https://pure.au.dk/portal/en/projects/drab-i-danmark-19922016(059c5a82-e4e6-4588-918f-d03bc101b718).html?)
- <sup>lxiii</sup> Interviews by a Danish NGO-based outreach programme (2012-2018) with migrant women expose cases of economic, physical, sexual, and psychological violence by abusers with both ethnic Danish background and ethnic minority background. The Danish Gender Equality Action Plan (2019) concluded that old-fashioned gender roles in ethnic minority communities put women at risk of violence.
- <sup>lxiv</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 16 and CRC.
- <sup>lxv</sup> CRC art 12 and UN standard minimum rules for administration of justice for juveniles (Beijing-rules).
- <sup>lxvi</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 4 and 16 and CRC art. 42
- <sup>lxvii</sup> UNICEF 2019: New Survey <https://www.unicef.dk/2019/09/30/danske-boern-og-unge-accepterer-vold-overvaagning-og-tortur/>
- <sup>lxviii</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 4 and 16 and CRC art 16, 17, 19
- <sup>lxix</sup> No recommendation on this matter during UPR 2nd Cycle. This issue relates to SDG 10 and 16 and CRC art. 24 and 26
- <sup>lx</sup> This issue relates to SDG 16, CRC art. 3, 6(2) and 9(1) and art. 10(1) and ICCPR art. 23-24. Previous UPR recommendations during 2nd Cycle: Rec. 120.190, Give importance to guaranteeing that refugees who fall into the category of "war refugees" are given the right to family reunification (supported). Further recommendations during 2<sup>nd</sup> cycle: Rec 120.191, 120.186, 120.187 and 120.192 (noted).

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<sup>lxxx</sup> This issue is related to SDG 16, CRC art. 3, 6(2), 9(1) and Art. 10(1) and ICCPR Art. 23-24. Previous UPR recommendations during 2nd Cycle: Rec. 120.189, Take the necessary legal measures to ensure the right to family reunification of children aged over 15 years (supported). Further recommendations during 2<sup>nd</sup> cycle: Rec. 120.186, 120.192 (noted).

<sup>lxxxi</sup> SDG 16 and ECHR art. 8 and 14. 2nd Cycle: Rec. 120.186, Grant the right to family reunification to all refugees (noted).

<sup>lxxxii</sup> The European Court of Human Rights has made several judgments, in which the Court has found that national authorities' rejection of family reunification for LGBT+ persons has been a violation of their human rights, cf. Pajić v. Croatia (app. no. 68453/13).

<sup>lxxxiii</sup> This issue relates to SDG 16 and the obligation to ensure durable solutions. Previous UPR recommendations during 2nd Cycle 120.39 (Noted).

<sup>lxxxiv</sup> SDG 10. Previous UPR recommendations during 2nd Cycle: Rec. 120.176, Step up efforts towards the prevention of discrimination against refugees and asylum seekers by repealing recent laws and methods perpetuating those practices (noted).

<sup>lxxxv</sup> This issue is related to SDG 10 and 16, ICESCR art. 3, 9, 11 and CRC art. 26-27. Previous UPR recommendations during 2nd Cycle: Rec. 120.155, Continue strengthening social programmes for the most vulnerable sectors of the population, in particular children, women, the elderly and those with disabilities belonging to minorities (supported). Further recommendations during 2<sup>nd</sup> cycle: Rec. 120.34 and 120.176 (noted).

<sup>lxxxvi</sup> DRC report shows that more children in refugee families live in poverty than other children. Many refugees, who receive social benefit, are experiencing a dire financial situation and have economic problems related to housing, medicine, food, transport, social activities and their children's activities in school, see [https://flygtning.dk/media/5133282/vi-tager-jo-droemmene-fra-dem-under-soegelse\\_lovaendringer\\_2019.pdf](https://flygtning.dk/media/5133282/vi-tager-jo-droemmene-fra-dem-under-soegelse_lovaendringer_2019.pdf)

<sup>lxxxvii</sup> Law no. 174 of 27 February 2019.

<sup>lxxxviii</sup> This issue relates to SDG 10 and 16. UPR Rec 120.178, Ensure that changes in the asylum laws and regulations are compliant with international human rights standards (supported).

<sup>lxxxix</sup> Article 26 in the Danish Aliens Act.

<sup>xc</sup> The first case revoked the residence permit of a Somali man who had been in Denmark for 8 years, had an education, a steady job, a wife (pending case) and a child born in Denmark, <https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.information.dk%2Findland%2F2020%2F07%2Ffoerste-sag-stoejbergs-paradigmeskift-somalier-faar-inddraget-opholdstil-ladelse&data=02%7C01%7Cline.boeg-sted%40drc.ngo%7C6669c3ae4297410a541208d84db1cad8%7C2a212241899c4752bd3351eac3c582d5%7C0%7C0%7C637344773296755378&sdata=1U5%2BkUFWbdnIMI2%2FozqOpasCjQSQCvjDvFEJLwsy2XA%3D&reserved=0>

<sup>xcii</sup> SDG 3 and 16 and CESCR, art. 12. Previous UPR recommendation during 2<sup>nd</sup> Cycle: Rec. 120.176 (noted).

<sup>xcii</sup> Law no. 729 of 8 June 2018.

<sup>xciii</sup> See [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=DNK&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=DNK&Lang=EN)

<sup>xciv</sup> [https://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/udgivelser/ligebehandling\\_2019/egenbetaling\\_tolkebistand.pdf](https://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/udgivelser/ligebehandling_2019/egenbetaling_tolkebistand.pdf)

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## Annex 1

We would like to thank the Danish government for preparing an inclusive UPR process with hearings and discussions. The report is prepared in consultation with the Danish Institute for Human Rights, who also provided secretarial assistance.

### **1. Action Aid Denmark**

We fight poverty by helping the poor to fight for their rights and break the structures, which holds them back in hunger and poverty. Our work aims to improve poor people's conditions of life, in order for them to manage without support in the long run. Our target groups are primarily women and youth. Together with local organizations we work to empower people living in poverty and support them in knowing and demanding their rights, in order for them to build democratic and sustainable societies.

More information on: <https://www.ms.dk/en>

### **2. Amnesty International Denmark**

Amnesty International Denmark is the Danish section of the global organization Amnesty International. Amnesty International's vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations. Amnesty International Denmark is as a national section responsible for lobbying the Danish government, authorities and other powerful actors, campaigning, fundraising and communications within Denmark and research focusing on human rights in Denmark.

More information on: <https://amnesty.dk/>

### **3. Association of Immigration Lawyers**

The Association of Immigration Lawyers is a professional network for lawyers and legal assistants who deal with immigration law, including asylum cases, family reunification cases, study and work permits and visa cases.

More information on: <https://www.fauadvokater.com/>

### **4. Better Psychiatry – National Association of Relatives**

The objectives of Better Psychiatry are to both achieve improved conditions for psychiatric patients and the relatives of psychiatrically ill persons as well as to accomplish a more effective cure for psychiatric patients. Better Psychiatry is a nationwide organization lead by the local members' engagement and voluntary work, which is carried out by more than 60 local unions. We are independent of political parties, economics, and religious beliefs. Since 2006 the membership has quadrupled making Better Psychiatry one of the largest organizations of its kind in Denmark.

More information on: <https://bedrepsykiatri.dk/>

### **5. Danish Association of Legal Affairs**

Danish Association of Legal Affairs was founded in 1978 as a law-critical association. The purpose of the association is according to the statutes to ensure and expand the legal security, democratic freedoms and social rights of citizens, with particular emphasis on improving the legal situation of the disadvantaged. Judicial Policy Association takes an active, critical and constructive approach to judicial policy developments. The association is politically independent.

More information on: <http://www.retspolitik.dk/>

### **6. Danish Helsinki Committee for Human Rights**

The Danish Helsinki Committee for Human Rights was established in 1985 as part of the former international Helsinki Federation. Like other national Helsinki committees and groups, our work is based on the Helsinki Declaration from August 1975, which was the foundation of CSCE (Conference for Security and Cooperation in Europe), since 1994 OSCE. Over the years, the Danish Helsinki Committee for Human Rights has implemented a wide range of projects for participants from the post-communist countries and Turkey within the rule of law, prison conditions, juvenile delinquency, social

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rights and minority rights. For example, we have monitored lawsuits in Kosovo, Poland, Russia, Turkey and Ukraine. The committee deals with democracy development in e.g., Georgia and Ukraine. The Committee strives to inform about OSCE's and the Council of Europe's activities concerning rule of law and human rights. Recently, we are also committed to monitoring national human rights matters, including anti-corruption.

More information on: <http://helsinkicommittee.dk/#>

#### **7. DRC Danish Refugee Council**

DRC Danish Refugee Council – is a leading, international humanitarian displacement organization, supporting refugees and internally displaced persons in 40 countries. DRC Danish Refugee Council also provide legal counselling to asylum seekers and refugees in Denmark.

More information on: <https://drc.ngo/EN>

#### **8. Danish United Nations Association**

United Nation Association Denmark is a cross-political association - a non-governmental organization (NGO) that takes a critical and constructive stance to questions relating to Denmark and the UN.

More information on: <https://fnforbundet.dk/>

#### **9. DIGNITY – Danish Institute Against Torture**

DIGNITY is headquartered in Denmark, but cooperates with partner organizations in about twenty other countries. We were founded in 1982 by doctor Inge Genefke. As one of the first, we focused on the need for specialized treatment for victims of torture, and DIGNITY (or Rehabilitation and research Center for Torture victims, as it was called back then) became one of the first torture rehabilitation centers in the world. Today we work both politically, juridically and medically. We fight for a world without torture and offer torture victims the vital rehabilitation they need.

More information on: <https://www.dignity.dk/en/>

#### **10. Disabled People's Organisations Denmark**

Disabled Peoples' Organizations Denmark (DPOD) is the umbrella organization for 35 Danish disability organizations. We represent persons with all kinds of disabilities, visible and invisible. DPOD works both, at the municipal level, where DPOD has 97 local departments, nationally, and internationally. The purpose of DPOD is to enable persons with disabilities to live a life like everyone else"

More information on: <https://handicap.dk/english>

#### **11. EuroMed Rights**

Rooted in civil society, EuroMed Rights seeks to develop and strengthen partnerships between NGOs in the Euro-Mediterranean region, advocate for human rights and develop capacities in this regard. Following the launch of the Barcelona Process in 1995, a group of human rights activists from both sides of the Mediterranean believed that they could make a positive impact on the human rights situation by creating a civil society network, linking up the Barcelona Process to Human Rights NGOs operating in the region.

More information on: <https://euromedrights.org/about-us/who-we-are/>

#### **12. European Anti-Poverty Network (EAPN)**

The European Anti-Poverty Network (EAPN) is the largest European network of national, regional and local anti-poverty NGOs and grassroots groups, as well as European Organizations active in the fight against poverty and social exclusion. EAPN is fighting for a social Europe free of poverty.

More information on: <https://www.eapn.eu>

#### **13. European Network against Racisms (ENAR)**

European Network Against Racism Denmark is the Danish chapter of ENAR, coordinating activities between organizations working in the field of anti-discrimination and anti-racism.

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More information on: <https://www.enar-eu.org/>

**14.** Global Focus

Global Focus is a unifying platform for Danish civil society organizations, engaged in international development, environmental and humanitarian activities. We work for a fairer and more sustainable world, where people can live free from poverty and exercise their human rights, borne by a strong and diverse civil society. Our work focuses on six overall focus areas: the SDGs, Humanitarian action, Development and Peacebuilding, A 'future fit' and innovative civil society, Climate and sustainable change, Civic Space and Leadership.

More information on: <https://www.globalfokus.dk/in-english>

**15.** International Rehabilitation Council for Torture Victims (IRCT)

The IRCT strives to achieve "A World Without Torture." As a network of 158 torture rehabilitation centres across 75 countries, we are the world's largest membership-based civil society organization providing rehabilitation to victims, preventing torture, increasing access to justice and fighting impunity. Our membership supports more than 60,000 torture victims each year to rebuild their lives.

More information on: <https://irct.org/>

**16.** Intersex Danmark

Intersex Danmark is a human rights-based organization, working for the recognition of the rights of intersex people. Intersex Danmark is led by intersex people, and our members are primarily intersex persons and their relatives. We primarily work in the following 3 areas:

Informational: We inform about intersex through lectures, film screenings and through social media.

Politically: We lobby for legislation, that recognizes the rights of, and improves the conditions for, intersex people in Denmark.

Socially: We run a support group, and offer counselling for intersex people, and their relatives.

We work with a wide range of organizations and authorities, both nationally and internationally.

More information on: <https://www.intersexdanmark.com/>

**17.** Joint Council for Child Issues

Joint Council for Child Issues was established in 1903 and has since then worked to improve conditions for children and young people in vulnerable positions in Denmark. We are a democratic and impartial umbrella organization that works with over 100,000 children and young people in Denmark. Our vision is a Denmark without poverty for children and young people, where the right to participation, self-determination, health, development, security and education is realized.

More information on: <https://boernesagen.dk/english/>

**18.** LGBT+ Danmark

LGBT+ Denmark, the Danish National Organisation for LGBT+ People, is an NGO working with sexual orientation and gender identity. It is the main Danish interest organisation of the LGBT+ community and was founded in 1948. Since then, it has worked to promote respect for diverse gender identities and sexual orientations at all levels (i.e., local, national, European, and international).

More information on: <http://lgbt.dk/>

**19.** LGBT Asylum

LGBT Asylum is a group of LGBT+ people – asylum seekers, refugees, Danish citizens and persons residing in Denmark. LGBT Asylum works for the rights of lesbian, gay, bisexual and transgender persons in the Danish asylum system and for the rights of LGBT+ refugees in Denmark. We provide support and counselling for LGBT+ asylum seekers and refugees as well as a social network.

More information on: <https://lgbtasylum.dk/>

**20.** National Council for Children

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The national Council for Children is an independent national institution for children that works to safeguard the rights of children and young people in Denmark.

More information on: <https://www.boerneraadet.dk/english>

**21. OASIS – Treatment and Counselling of Refugees**

OASIS is a treatment and counseling center for refugees, offering interdisciplinary, psychosocial treatment to refugees who have been traumatized through imprisonment and torture, war experiences and other forms of organized violence in another country. OASIS also offers supervision, training and consulting assistance.

More information on: <https://www.oasis-rehab.dk/forside/>

**22. Refugees Welcome**

Refugees Welcome DK is a small and independent humanitarian organization, mainly based on voluntary work. Our fundamental is the UN Refugee Convention. We work in two ways: offering personal legal counselling to refugees and asylum seekers for free and advocating to improve the general situation for refugees in Denmark. The most important part of the advocacy work is our information website [refugees.dk](http://refugees.dk) where we collect all relevant information concerning refugees in Denmark in Danish and English.

More information on: <https://refugeeswelcome.dk/>

**23. Save the Children Denmark**

Save the Children works in Denmark and more than 120 other countries. Save the Children Denmark is a democratic organization of committed volunteers organized into 60 local branches. We save **children's lives. We protect and** strengthen them. We fight for their rights. We advocate for positive changes for vulnerable children and encourage debate on the quality of **children's lives.**

More information on: <https://redbarnet.dk/>

**24. Save the Children Youth**

Save the Children Youth works towards a world where children have faith in themselves, other people and their future. We fight for this vision through different engaging activities which help form relations between children and young volunteers - all of which are founded in the United Nations Convention on the Rights of the Child.

More information on: <https://redbarnetungdom.dk/>

**25. Women's Council in Denmark**

The Women's Council Denmark is a non-governmental umbrella organization (NGO) for 46 organizations working together to promote **women's** rights and gender equality in Denmark and globally. Member organizations count women rights' organizations, as well as political parties, **trade unions, gender researchers, shelters, humanitarian women's** organizations and professional women's groups. The Women's Council Denmark was established in 1899 as the common voice for Danish women internationally.

More information on: <https://kvinderaadet.dk/the-womens-council-in-denmark/>

**26. Youth for Human Rights.**

Youth for Human Rights Denmark is an association working to educate and inspire youth to become human rights ambassadors, as well as working for the implementation of the UDHR and its conventions.

More information on: <https://ungeformenneskerettigheder.dk/>



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## Annex 2

This annex, which is written by Intersex Denmark, explains in further details the situation for intersex persons in Denmark.

### 1) Numbers of intersex births, prenatal testing and abortion rates.

In Denmark we traditionally document and register everything we do within the healthcare system, however when it comes to intersex, no clear, and easily accessible numbers regarding intersex births exist. According to the Minister of Health, there is no database recording such numbers.

In Denmark we offer quite an extensive number of prenatal tests, free of charge to expecting mothers, all of which alone or combined, can detect multiple intersex variations, an example being the NIPT test, a blood sample drawn from the mother, which can be used, to count the number of X chromosomes in the fetus. This relates to an information, which when compared to the result of the scan, offered to pregnant women, can disclose certain intersex variations like XXX, XXY and XO. Yet we are being told, that the number of intersex fetuses found through prenatal testing, are not recorded anywhere.

This information is highly problematic, when knowing that already in 2004, concerns were raised about the sky rocketing number of abortions, as an example :

\* 90% of all pregnancies where the expected child was found to have karyotype XO, Turners Syndrome, were terminated.

\*50% of all pregnancies where the expected child was found to have karyotype XXY, Klinefelters Syndrome, were terminated.

This concern was repeated in 2012, where Claus Gravholt, the leading expert on those 2 variations, raised a red flag, as he stated that: **"It is problematic and brutal. I meet them as adults and many of them live their lives completely comparable to everyone else. It results in a debate about, how normal one must be, to be born."**<sup>xciv</sup>

We have spoken to a number of expecting parents, who report that they have felt extremely pressured, by doctors, to choose to abort, when they were informed that they were expecting an intersex baby. We are aware of cases where abortions were carried out as late term abortions, although the law set up some pretty firm criteria, one has to meet, in order to get permission to have a late term abortion, criteria, that are bend, in order to justify late term abortions on grounds of intersex variations. In 1999 2 midwives were raising concerns, regarding the use of late term abortions, as after introducing prenatal tests in Denmark, they felt that the indications got wider, and they saw that even in cases, of minor chromosomal variations, that would not necessarily lead to a mental handicap, the woman would still be encouraged to choose an abortion, and that this line of action, may result in, healthy babies being aborted late term as well.<sup>xciv</sup>

### 2) Unnecessary surgeries and treatments on intersex children

Hundreds of surgeries and treatments on intersex minors, are carried out in Denmark every year, many of which are to be categorized as medically unnecessary sex-normalizing treatments and surgeries, on intersex minors. An example is Hypospadias Repairs a procedure, aimed to move the urethra from below the tip of the penis to the tip of the penis. Amnesty in their 2018 report "First do no harm" quoted a prominent Danish doctor, for stating, that the optimal outcome of a Hypospadias repair would be that : "**the boy pees standing up – the normal way**" Around 200 Hypospadias repairs take place in Denmark every year, most of which, take place on intersex children under the age of 2.

Denmark has three times received recommendations by UN Treaty Bodies to stop medically unnecessary sex-normalizing treatments and surgeries on intersex minors in (E/C.12/DNK/CO/6), (CAT/C/DNK/6-7) and (CRC/C/DNK/5)

Yet no legislative steps have been taken, to ensure intersex people, the right to physical integrity, bodily autonomy, and self-determination, and to ensure that no-one is subjected to harmful practices or unnecessary irreversible medical

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treatment or surgery during infancy or childhood.

Multiple institutions, including the Office of the United Nations High Commissioner for Human Rights and regional human rights mechanisms, have advised that States should, as a matter of urgency, protect the autonomy of intersex adults and children and their rights to health, to physical and mental integrity to live free from violence and harmful practices and to be free from torture and ill-treatment.

3) Discrimination within healthcare setting, against intersex adults who does not identify with the sex they were assigned at birth.

Intersex adults, who are able to give their full, free and informed consent, to treatment or surgery, that they may need in order to align their bodies to their gender identity, may be faced with massive hurdles, if their gender identity does not match the sex they were assigned at birth.

Adult intersex people are divided into 2 groups in the Danish treatment system :

Grp 1 : Adult intersex people who agree with the sex assigned at birth, this group has immediate access to hormone treatment, and surgeries, provided by teams specialized in intersex healthcare, and their treatment is covered by a treatment guarantee.

Grp 2 : Adult intersex people who disagree with the sex they were assigned at birth, This group is considered to be transgender, and therefore have to undergo months of medical and in some cases psychological evaluations and examinations, by teams specialized in transgender treatment, often without intersex specialization, when seeking access to hormone treatments and surgeries, to align their body with their gender identity, as their treatment is considered transgender treatment it is no longer covered by the treatment guarantee.

Zillen et al, in the report “The Rights of Children in Biomedicine: Challenges posed by scientific advances and uncertainties”, in regard to intersex children states that : “Classifying these children as transgender relative to their juridical sex is problematic. Rather, their identities as male, female, a combination of both, or other identities such as “intersex” all can be consistent with some aspect of their sex development, such that their registered gender may be wrong. However intersex children become intersex adults, and the issue remains.

This act of discrimination within the health care setting, is based upon sex assigned at birth compounded by stigma and bias, it may greatly affect the individuals physical health and/or psychological well-being and stands in the way of some **intersex people's right to highest attainable health, including their right to highest attainable sexual health**

#### 4) Waiting lists for surgeries

Intersex people who disagree with the sex they were assigned at birth, who have undergone a lengthy evaluation and examination to get to get approved for bottom surgery, will if approved, face a waiting list of 18 – 36 months.

A number of people are told to lose weight, in order, to get surgery, and they are then placed outside the waiting list, till they have lost the required weight.

This approach unnecessarily increase the waiting time, for this group, which is highly problematic as It has been documented, that long waiting times, places this group under immense pressure, which can lead to isolation, stress and depression as well as increased risk of suicide.

It would greatly decrease the waiting time for this group if they could be placed on the waiting list with the premise, that they have to have lose the required weight, before the surgery will take place.

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5) Regarding access to complain about a medical procedures or file for reparation.

In Denmark, the statutes of limitation for filing a complaint, appear on the website of “Styrelsen for Patientsikkerhed”, which states that a complaint must be submitted:

- Within 2 years, after the patient has become aware about or should have become aware about the relation to which they are stating their complaint.
- At most, 5 years after the day, the relation, to which a complaint is submitted, happened.

The Statutes of limitation for filing for reparation, appear on the website of The Patient Compensation “Patienterstatningen”, which states that a complaint must be submitted:

- Within 3 years, after the patient has become aware about or should have become aware about the relation to which they are stating their file for reparation.
- At most, 10 years after the day, the relation, to which their file for reparation is submitted, happened.

Due to these rules, almost no intersex people, who wish to complain about a treatment or surgery, are able to make use of the possibility of submitting a complaint, or filing for reparation, as often the case will have exceeded the statutes of limitations, by the time they reach an age and a level of maturity, where they are able to submit a complaint.

In regard to filing for reparation, 2 additional rules are to be considered the “Specialist rule” and the “Reasonableness Rule”

- The specialist rule States that: The Patient Compensation (Patienterstatningen) determines if the most experienced specialist in the field, would have done something different, in regard to treatment, and the reason for the complaint, could then have been avoided, if this is the case, the patient may be entitled to compensation, according to this rule.
- The reasonableness rule: States that : The Patient Compensation (Patienterstatningen) assesses the severity of the disease for which the patient has been treated. The more severe the condition, the more complications the patient must be able to endure, when the patient is treated for their illness, without the patient being entitled to compensation

These rules, are highly problematic, in regard to cases of medically unnecessary sex-normalizing treatments and surgeries, carried out on intersex minors, as in many cases the procedure in itself, was not medically necessary, and thus should never have taken place, as the individual was not mature enough, to be able to give their full, free and informed consent to the treatment.

On top of this, it can be hard for intersex people, to gain full access to their medical records, which can further complicate or limit the process.

6) Incarcerated Intersex and transgender people.

We have received reports of intersex and transgender women, who are incarcerated, who have been placed in the **men's ward, they are denied their right, to have naked frisk searches conducted by a person of their own gender, they** have on more occasions experienced being ridiculed, by other inmates without guards stepping in, and have experienced being ridiculed by guards, during these frisk searches. They are also denied the right, to wear female attire in the prison, this is a clear breech on several human rights including but not limited to UDHR Article 7,

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7) Distribution of pathologizing material.

One of the focus areas of the 2018 LGBTI action-plan, is developing information material, for parents of intersex children. We recommended, and welcomed this choice of focus area, as we expected it to work, as a Human Rights based counterweight, to the medicalized and pathologizing approach, by Sundhedsstyrelsen (The National Board of Health), and the medical establishment in Denmark.

The pathologizing pro surgeries approach, has been criticized by **Zillen et al in the report “The Rights of Children in Biomedicine: Challenges posed by scientific advances and uncertainties”**, for the lack of evidence, for the safety, necessity, and for the lack of benefits for the concerned individual.

However, the task of developing this information material, was not given to the Human Rights based stakeholders, nor was the need, for a Human Rights based approach in the material, demanded or mentioned. The task of developing the material was given to Sundhedsstyrelsen (The National Board of Health) and we are greatly concerned, that the result will be, a highly pathologizing material, to be distributed among parents of intersex children, with the stamp of approval, from the Ministry of Equality, granting the pathologizing, pro surgeries approach, even more leverage.

If the state approves of, and takes part in, distributing pathologizing material, and thereby endorses the type of surgeries condemned by the UN, it mounts to incitement to harmful practice, ill treatment and torture, based on sex, and gender stereotypes, under the guise that these interventions are medically necessary or beneficial.

8) The need to educate Health care workers

In Denmark many healthcare workers are unaware of the health care needs of intersex people, more often than not, GPs, nurses, psychiatrists etc. are unaware that intersex people even exist, and intersex people often experience having to educate doctors and health care professionals, on intersex issues.

Medical staff and healthcare workers are often unaware of the Human Rights aspects in intersex health care, among other things the right to bodily autonomy, physical integrity and self-determination, and on the range of sexual and related biological and physical diversity, and the consequences of unnecessary surgical and other medical interventions for intersex children.

Even within the group of healthcare professionals who work with intersex people, a highly pathologizing attitude towards intersex treatment is predominant, resulting in intersex being treated as a medical issue.

This lack of knowledge among healthcare professionals, has led to recommendations twice, by CRC in 2017 (CRC/C/DNK/5) and by CESCR in 2019 (E/C.12/DNK/CO/6)

9) Regarding previous reports by Denmark.

During the last examinations of Denmark, when questioned about medically unnecessary normalizing treatments and surgeries on intersex minors, it has been wrongfully stated, that such surgeries do not take place in Denmark.

As stated above, it has been documented, by Amnesty International, that such treatments and surgeries do in fact take place in Denmark.

The fact that Denmark for years have rejected, that unnecessary surgeries and treatments take place in Denmark is based on a twist on words, as

1) The medical establishment in Denmark, refer to the term DSD, which enables them to exclude some intersex variations, from their response, among others Hypospadias.

2) The medical establishment in Denmark seem to strongly disagree with the human rights orgs., on when a surgery or a treatment should be deemed medically unnecessary.

10) The use of the term Disorder of Sex development

In 2019 concerns were raised in (E/C.12/DNK/CO/6) that the term Disorder of Sex Development (DSD)and the term

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intersex, were used synonymously. These two terms cannot be used synonymous, as they do not necessarily, cover the same group of people.

The reason being that the term DSD is open for interpretations, there is no clear definition of which intersex variations are to be considered as such, and which are not, whereas the term intersex covers all atypical congenital variations in sex characteristics, and is a broader more inclusive term.

The term DSD, is considered pathologizing by many Intersex and Human Rights orgs.

In order, to ensure a common frame of reference, it would be beneficial to advice states, to use the term intersex, and the same interpretation of the term, when reporting to the UN.

(E/C.12/DNK/CO/6)

11) The fact that the term Unnecessary treatments and surgeries, is open for interpretation.

**The term “unnecessary treatments and surgeries” is left open to interpretation, which has led to, medical staff interpreting certain surgeries as highly beneficial, and thus necessary, surgeries and treatments that in a Human Rights scope, are to be categorized as medically unnecessary sex-normalizing treatments and surgeries, on intersex minors. Surgeries which could have been postponed, until such time, when the person is mature enough to give their full free and informed consent.**

The divergence between the medical, and the human rights based interpretation of when a surgery is necessary, has been clearly reflected, when Denmark in connection with previous reports to the UN repeatedly has claimed, that unnecessary treatments and surgeries on intersex minors, do not take place in Denmark.

Carpenter M in his report “Intersex Variations, Human Rights, and the International Classification of Diseases” addresses the different terminology used to describe, these surgeries, while Zillen et al in the report “The Rights of Children in Biomedicine: Challenges posed by scientific advances and uncertainties” addresses the scientific question of whether these interventions necessary and defines the 3 types of surgeries and treatments that meets the criteria for being necessary, and address the fact, that doctors, despite lack of evidence, defend other interventions as highly beneficial to the health and thus necessary for healthy functioning.

CRC has previously found it appropriate to define the term “All appropriate...measures” as it is stated in CRC/C/GC/13 para 39 that “*The term “appropriate” refers to the broad range of measures cutting across all sectors of Government, which must be used and be effective in order to prevent and respond to all forms of violence. “Appropriate” cannot be interpreted to mean acceptance of some forms of violence*”

It may be beneficial to define that the term “Unnecessary treatments and surgeries” should be interpreted from a Human Rights perspective, and should include the broadest possible understanding of the term, and it would be beneficial for the reporting process, if states got advised to relate to the term “unnecessary treatments and surgeries”, from a human rights perspective, when reporting to the UN and other bodies.<sup>xciv</sup>

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## Annex 3

Additional information regarding refugees and asylum-seekers, written by

Refugees Welcome and DRC Danish Refugee Council

### 1) Family reunifications from Eritrea<sup>xciv</sup>

Denmark saw a sudden increase in Eritrean refugees from 2014 to 2016, resulting in a large number of applications for family reunification.<sup>xciv</sup> The typical situation is a man arriving alone to Denmark, informing the authorities on interview that he is married, with or without children. When he is granted asylum, he will apply for family reunification. The wife and maybe children will try to flee illegally across the border into Ethiopia or Sudan, at the risk of being imprisoned, and wait for the decision there.

The Danish authorities demand two kinds of marriage certificates from Eritrea: the one from the church (which almost everybody has and presents) and a civil registration from the local council (which is extremely rare and can't be obtained after having left the country).

When a couple can't present the civil certificate, they are not regarded as married, and can only obtain the permit if they have been living together as a nuclear family for 18-24 months. This is the next problem for the Eritrean couples: they are often young, and the husband has often been forced to live far away from his wife because of military or national service, only being allowed a few visits per year.

These factors can lead to rejection, even when the couple has one or more children together, and even though the family has been keeping in touch as much as possible. In some cases, a rejection amounts to violation of the right to a family life.

There are several cases where the children get a permission to come and live with their father in Denmark, based on a DNA test, but the mother gets rejected and must stay as a refugee in Ethiopia or Sudan.

The demand to present a civil marriage certificate is unfair, as this originates from the Eritrea constitution stating it as mandatory to register a marriage this way – but in fact, church weddings are legally binding, and it's a fact that very few have ever obtained a civil registration. The court of Amsterdam ruled in 2017 against this, stating that the demand was unfair based on an expert hearing.

We recommend that the Danish authorities should consider the church certificate, often supported by pictures and videos and witness statements from the wedding, as enough proof for a marriage, and that having a child together, proven by DNA test, should be enough to be under the protection of article 8 in ECHR.

### 2) Counseling and supporting unaccompanied minors in family reunification cases<sup>xciv</sup>

Unaccompanied minors too often do not receive proper counseling from Danish local authorities regarding family reunification and the means of support which they are entitled to according to The Danish Social Service Law §1.<sup>xciv</sup> In order to make sure that the applications contain all the information needed and are filed as soon as possible, and to prevent an array of problems when family reunification is granted, proper counseling and support is needed. Far too many children assume responsibility for the family, put aside their own needs and are often left alone with a heavy burden, like that of “**an adult family burden**”.

We recommend ensuring that local authorities are made aware of their responsibility regarding the unaccompanied minors, which they and their families are entitled to according to The Danish Social Service Law.

### 3) Legal guardian<sup>xciv</sup>

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Unaccompanied minors wait too long before they are appointed a legal guardian as required by law.<sup>xciv</sup> after they have received their residence permit. Currently we see minors waiting more than 6 months, which means that many unaccompanied minors start their life in Denmark without enough safeguarding of their rights and the necessary care which an independent legal guardian provides. Moreover, several unaccompanied minors risk turning 18 years old without having been appointed a legal guardian. This is a concern, as the transition to the 18th year involves many new and demanding challenges, such as becoming a subject of a new legislation for adults, new economic structures, and new living arrangements, just to name a few of the changes.

We recommend ensuring that appointment of a legal guardian is prioritized by all authorities and that unaccompanied minors are placed in municipalities which are used to working with this target group. In this way the municipalities have more and better possibilities of providing needed support for the child, including finding a legal guardian with assistance from the Danish Red Cross.

#### 4) Help beyond the age of 18

Section 68 no 12 of The Danish Social Service Law<sup>xciv</sup> states that the municipal council must decide at least six months prior to the age of 18, whether the young person needs further means of support, such as an appointed social mentor or additional housing arrangements. The legislation (section 48) furthermore states that the child and legal guardian must be consulted before any such decisions are made. However, too often it happens that social caseworkers lack the knowledge of the obligations of the municipalities in this regard, hence leaving the now young adults in a very vulnerable situation and in an even harder transition to adult life.

We recommend ensuring that social workers are aware of their obligations in relation to a child becoming 18-years-old according to The Danish Social Service Law and to adopt strategies to ensure that the municipalities retain and share knowledge regarding best practices and adequate knowledge regarding the needs of unaccompanied minors.

#### 5) Tolerated stay<sup>xciv</sup>

According to the legislation on tolerated stay, persons are "tolerated" if they are not eligible for residency or asylum but cannot be expelled due to the risk of torture or death penalty upon expulsion. The main rule is that one must live at a deportation center and must report to the police usually every day so that expulsion can be carried out promptly when the opportunity arises.<sup>xciv</sup> Rights to family life and rights to health care and to work and study are restricted.

In recent years more and more individuals have been placed on tolerated stay, but since 2007 not even one has been expelled. From June 1st, 2019 the penalty for not staying at the ordered center and reporting to the police was increased. According to the Ministry of Foreigners and Integration there were 94 persons on tolerated stay (January 1st, 2020). 61 of these have been ordered to stay at a deportation center and report to the police. 234 convictions for not staying at the center or reporting to the police were handed out in 2019 with on average 54 days of prison.<sup>xciv</sup> There seems to be a lack of proportion between the penalties and the violation and little or no regard is taken to ECHR Art. 8 in assessing the necessity of ordering the stay at the deportation center.

We recommend to introduce an upper time limit in the tolerated stay legislation, if possible as a part of the judgement on expulsion, to secure that a proper assessment of the proportionality of the sanction and the time spent on tolerated stay is taken into consideration when deciding if the sanction should be lifted, and to change the legislation to stop the increased use of prison for violation of ordered staying at a deportation center and reporting to the police.

#### 6) Access to education for young asylum seekers<sup>xciv</sup>

Asylum seeking children in Denmark are guaranteed access to primary school, but especially for children who for different reasons are facing longer stay in the asylum system, it can be a problem that they are no longer eligible for youth education when they turn 17. Also, they are not guaranteed access to secondary education, for example high school, and there is

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no budget to finance the fee if they are accepted. In practice this means that young asylum seekers at the age of 17-21 are offered to join education for adult asylum seekers, but this does not provide them with any formal qualifications.

We recommend ensuring that asylum seekers age of 17-21 are guaranteed access to education equal to Danish youth.