



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Concluding observations on the sixth periodic report of Denmark\*

1. The Committee considered the sixth periodic report of Denmark (CCPR/C/DNK/6) at its 3267th and 3268th meetings (CCPR/C/SR.3267 and 3268), held on 20 and 21 June 2016. At its 3293rd meeting, held on 7 July 2016, it adopted the present concluding observations.

#### A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its sixth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/DNK/Q/6). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

#### B. Positive aspects

3. The Committee welcomes the following legislative and institutional measures taken by the State party:

- (a) The entry into force of the Act on Greenland Self-Government, in 2009;
- (b) The adoption of Act No. 7522 of 25 June 2014 concerning transgender persons seeking gender identity recognition;
- (c) The adoption of legislation on same-sex marriage in 2012 and its extension to Greenland in April 2016;
- (d) The adoption of amendments to the Criminal Code and the Military Criminal Code lifting the statute of limitations on violations committed using torture, including attempts to use torture and complicity in torture, in criminal cases;

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\* Adopted by the committee at its 117th session (20 June-15 July 2016).



- (e) The establishment of the Human Rights Council of Greenland, in 2013;
  - (f) The strengthening of the capacity of the Danish Institute for Human Rights in 2012 and the extension of its mandate to cover Greenland, in 2014;
  - (g) The strengthening of the mandate of the Danish Equality Body on Gender, in 2011;
  - (h) The establishment of the Independent Police Complaints Authority, in 2012;
  - (i) The adoption of the Action Plan to Combat Trafficking in Human Beings 2015-2018;
  - (j) The adoption by the Parliament of Greenland of the National Strategy and Action Plan against Violence 2014-2017, in 2013;
  - (k) The adoption in the Faroe Islands of the Action Plan to Prevent Violence in Close Relationships, in 2011.
4. The Committee welcomes the ratification of, or accession to, the following international instruments by the State party:
- (a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 24 July 2009 and 23 September 2014, respectively;
  - (b) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 7 October 2015.

## C. Principal matters of concern and recommendations

### **Incorporation of the Covenant in the domestic legal order**

5. The Committee notes that the State party does not intend to incorporate the Covenant in the domestic legal order, which results in a situation in which the national legislation may not be in full accordance with the Covenant (art. 2).

**6. The Committee calls upon the State party to review its position and consider incorporating the provisions of the Covenant in order to give full effect to them in its domestic legislation. The State party should pursue its efforts to raise awareness about the Covenant among judges, lawyers, prosecutors and public officials in order to ensure that its provisions can be invoked before, and given effect by, domestic courts. The State party should continue to raise awareness among its population about the provisions of the Covenant.**

### **Reservations to the Covenant**

7. While noting that the State party has narrowed its reservation to article 14 (5) of the Covenant, the Committee regrets that it maintains its reservations to articles 10 (3), second sentence, 14 (1), (5) and (7) and 20 (1) of the Covenant (art. 2).

**8. The State party should continue to review the justifications for, and the necessity of maintaining, its reservations to the provisions of the Covenant with a view to withdrawing them.**

### **Absence of a national human rights institution in the Faroe Islands**

9. The Committee is concerned at the absence of a national human rights institution to monitor the implementation of human rights in the Faroe Islands (art. 2).

10. **The State party should ensure that a national human rights institution compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) is established in the Faroe Islands with a view to monitoring the implementation of human rights in the territory.**

#### **Views under the Optional Protocol**

11. While the Committee welcomes the fact that the State party has implemented the majority of the Committee's Views under the Optional Protocol, it notes that it has not yet implemented all recent Views adopted by the Committee, especially in deportation cases (art. 2).

12. **The State party should give due consideration to recent Views adopted by the Committee under the first Optional Protocol so as to ensure access to an effective remedy in the event of a violation of the Covenant, in accordance with article 2 (3), especially in deportation cases. It should also disseminate the Committee's Views widely.**

#### **Anti-discrimination legislation**

13. The Committee is concerned that the State party's anti-discrimination legislation does not cover discrimination on all the grounds set forth in the Covenant, thus preventing some individuals or groups from fully exercising their rights. In particular, the Committee is concerned that lesbian, gay, bisexual and transgender persons and persons with disabilities cannot report to, or lodge complaints before, the Board of Equal Treatment in matters not related to the labour market. The Committee is also concerned at the lack of comprehensive anti-discrimination legislation in the Faroe Islands (arts. 2 and 26).

14. **The State party should revise its anti-discrimination legislation to ensure that it covers all grounds set forth in the Covenant and all areas of life. The State party should improve the accessibility of effective remedies for any form of discrimination, including by considering expanding the mandate of the Board of Equal Treatment to all forms of discrimination and to all groups and individuals, in particular lesbian, gay, bisexual and transgender persons and persons with disabilities, for matters not related to the labour market. The State party should expand the anti-discrimination legislation in the Faroe Islands.**

#### **Gender equality**

15. While noting measures taken by the State party to improve gender equality, the Committee remains concerned at the underrepresentation of women in political and public life, particularly in locally elected and executive bodies, including in Greenland and in the Faroe Islands. The Committee is also concerned that, despite the adoption of new rules governing gender representation on the company boards of the largest limited liability companies and State-owned companies, the representation of women in management and on boards remains low (arts. 2, 3 and 26).

16. **The State party should step up its efforts to promote the equal representation of women and men in public and political life at all levels, particularly in locally elected and executive bodies in Greenland and in the Faroe Islands. It should ensure gender equality on the boards of the largest limited liability companies and State-owned companies.**

17. The Committee is concerned about the persistence of a gender wage gap in the State party, which mostly affects women with an immigration background. The Committee is also concerned about obstacles faced by women in accessing full-time employment, which

negatively results in lowering their wages, including in Greenland and in the Faroe Islands. The Committee regrets the lack of information on concrete measures to overcome the gender wage gap and their results (arts. 2, 3 and 26).

**18. The State party should continue its efforts to promote women's equal access to full-time employment in all parts of its territory and to eliminate the gender wage gap and address differences in pay between men and women for work of equal value. It should pay particular attention to the situation of women with an immigration background.**

#### **Domestic violence**

19. While noting the various action plans the State party has adopted and implemented to combat domestic violence, in particular violence against women, as well as the amendments to the Criminal Code concerning sexual crimes, the Committee remains concerned that a high number of women continue to experience violence in the State party. The Committee regrets the lack of statistical data relating to complaints received on domestic violence, investigations, prosecutions and sanctions of perpetrators, including in Greenland and in the Faroe Islands. The Committee is concerned about information on inconsistencies in the application of the legislation on domestic violence in different police districts (arts. 3, 7 and 26).

**20. The State party should continue its efforts to combat domestic violence effectively, in particular violence against women, by ensuring effective reporting on acts of domestic violence, investigations, prosecutions and sanctions of perpetrators. The State party should ensure that guidelines on the application of its legislation are enforced by all police districts in a uniform manner. It should continue to provide training to all professionals involved in preventing and combating domestic violence.**

#### **Prohibition of torture**

21. While noting the State party's position on the matter and the incorporation of the definition of torture in section 157 (a) of the Criminal Code and section 27 A of the Military Criminal Code, the Committee is concerned that the State party has not included torture as a separate offence in its Criminal Code, but continues to qualify it as an aggravating circumstance for the determination of a sentence (art. 7).

**22. The State party should consider reviewing its position and including torture as a distinct offence in its Criminal Code, in order to ensure stronger prevention of, protection against and prosecution of torture.**

#### **Solitary confinement**

23. While noting efforts to reduce recourse to solitary confinement during pretrial detention, including the amendments to the Administration of Justice Act by Act No. 1561 of 20 December 2006, the Committee is concerned at the possible placement of remand detainees in solitary confinement for up to eight weeks for adults if the charges can lead to imprisonment for more than six years, and four weeks for minors. The Committee is also concerned at the use of solitary confinement as a disciplinary measure for convicts, which may be enforced for a continuous period of up to 28 days (arts. 7, 9 and 10).

**24. The State party should bring its legislation and practice on solitary confinement in line with international standards as reflected in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), by abolishing solitary confinement of minors and reducing the total length of permissible solitary confinement for remand detainees even if it is used as a measure of last resort. The State party should regularly evaluate the effects of solitary**

**confinement in order to continue to reduce it and to develop alternative measures where necessary.**

#### **Coercive measures in psychiatric institutions**

25. The Committee notes the State party's efforts to reduce the recourse to coercive measures in psychiatric institutions, in particular through Consolidated Act No. 1106 of 25 September 2015 on the use of coercion in psychiatry. However, it remains concerned at the recourse to such measures, which is often accompanied by immobilization of patients for more than 48 hours, despite the law stipulating that it should be applied as a measure of last resort only (arts. 7, 9 and 10).

**26. The State party should step up its efforts to reduce the recourse to coercive measures in psychiatric institutions, in particular by effectively applying the legal regime set up under Consolidated Act No. 1106 of 25 September 2015 and making sure that coercive measures are necessary and proportionate, and are used as a measure of last resort only. The State party should develop alternatives to coercive measures and ensure that recourse to immobilization measures that last more than 48 hours are closely monitored. The State party should make every effort to ensure that all mental health patients are fully informed about the treatment to be prescribed, and given the opportunity to refuse treatment or any other medical intervention.**

#### **Counter-terrorism and surveillance activities**

27. The Committee is concerned that the application of some of the measures used to combat terrorism may infringe the rights set forth in the Covenant. In particular, the Committee is concerned about: (a) the use in article 114 of the Criminal Code of vague terms criminalizing and defining actions constituting acts of terrorism; (b) section 780 of the Administration of Justice Act, which allows interception of communication by the police domestically and which may result in mass surveillance, despite the legal guarantees provided in sections 781 and 783 of the same Act; and (c) the possibility of revoking the citizenship of persons with dual nationality (arts. 2, 9, 13, 17 and 26).

**28. The State party should pursue its plans to comprehensively review counter-terrorism legislation and ensure that it is in full conformity with the State party's obligations under the Covenant. The State party should clearly define the acts that constitute terrorism in order to avoid abuses. The State party should ensure that the application of such legislation is compliant with the Covenant and that the principles of necessity, proportionality and non-discrimination are strictly observed. It should establish a clear procedure that enables persons who may be expelled on national security grounds to be promptly informed in order to allow them to have their case reviewed by the competent authority, and ensure that their rights are fully protected, including with the assistance of legal counsel.**

#### **Trafficking in persons**

29. While welcoming legislative, institutional and other measures adopted to combat trafficking in persons, in particular the National Plan to Combat Human Trafficking 2015-2018, the Committee is concerned that trafficking in human beings, including for sexual exploitation, continues to be a problem (arts. 8 and 24).

**30. The State party should strengthen its efforts to effectively prevent and combat trafficking in persons, including for the purposes of sexual exploitation, inter alia, by:**

**(a) Monitoring the impact of the application of its legislation on the fight against trafficking, and strengthening its cooperation with neighbouring countries;**

**(b) Ensuring that cases of trafficking are promptly and thoroughly investigated, that perpetrators are brought to justice and that victims continue to have access to effective means of protection and assistance services, as well as remedies for full reparation, including rehabilitation and adequate compensation. The State party should consider revising the conditions for granting residence permits to victims of trafficking.**

**Rights of aliens, including migrants, refugees and asylum seekers**

31. While acknowledging that a large number of migrants have arrived in the territory of the State party, the challenges involved and the great efforts made by the State party to meet their needs, as well as the high number of asylum applications granted, the Committee is concerned that some measures taken to address the influx of migrants may infringe the rights protected under the Covenant. The Committee is particularly concerned about: (a) the 2011 amendment to the Aliens Act establishing the initial period of detention of migrants awaiting deportation as 6 months with a possible extension of a further 12 months under certain conditions, which may be excessive; (b) reports of unsatisfactory detention conditions of migrants, including asylum seekers in the detention facility of Vridsløselille in the Albertslund municipality; (c) the amendment to the Aliens Act adopted in November 2015 that allows the temporary suspension of fundamental legal safeguards in situations of a high influx of migrants qualified as “special circumstances”; and (d) the amendment to the Aliens Act adopted in 2016 that introduces the possibility of confiscating asylum seekers’ assets in order to compensate for the costs of their reception without adequate safeguards (arts. 6, 7, 9 and 13).

**32. The State party should, while taking measures to control immigration, ensure their full compliance with the rights of migrants, including asylum seekers, as protected under the Covenant. In particular, the State party should:**

**(a) Ensure that its policies and practices related to the return and expulsion of migrants and asylum seekers afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant;**

**(b) Ensure that the detention of migrants and asylum seekers is reasonable, necessary and proportionate in the light of the circumstances, in accordance with the Committee’s general comment No. 35 (2014) on liberty and security of person, and that alternatives to detention are found in practice;**

**(c) Consider reducing the length of detention for migrants and asylum seekers who are awaiting deportation and improve the detention conditions of such persons, in particular at the detention facility of Vridsløselille;**

**(d) Repeal the amendment introduced to the Aliens Act in November 2015 in order to ensure that, in all cases, detained migrants have full access to fundamental legal safeguards, in particular to judicial review of the legality of their detention;**

**(e) Repeal the amendment to the Aliens Act relating to the confiscation of asylum seekers’ assets.**

33. The Committee is concerned at reports that Danish immigration authorities do not often request medical examination of asylum seekers who allege that they have been tortured in their country of origin in order to ascertain the veracity of their allegations (art. 7).

**34. The State party should, in all appropriate cases order a specialized medical examination as early as possible in the asylum procedure in order to determine whether asylum seekers who claim to have been tortured in their country of origin have in fact been tortured.**

### **Family reunification**

35. The Committee is concerned at the amendment to the Aliens Act adopted by Parliament in January 2016 that introduces restrictions on family reunification for persons under temporary protection status by requiring a residence permit for more than the last three years, unless warranted by the international obligations of Denmark (art. 23).

36. **The State party should consider reducing the duration of residence required of persons under temporary protection status in order for them to obtain family reunification, in compliance with the Covenant.**

### **Discrimination on the basis of religion**

37. While noting the information provided, the Committee remains concerned at the different treatment given to the Evangelical Lutheran Church and other religious communities in the State party. The Committee notes that the Evangelical Lutheran Church is authorized, inter alia, to register births and to perform legally binding marriages according to the Danish Marriage Act, without conditions (arts. 2 and 26).

38. **The State party should take appropriate measures to ensure non-discriminatory treatment of all religious communities within its territory.**

## **D. Dissemination of information relating to the Covenant**

39. The State party should widely disseminate the Covenant, its two Optional Protocols, its sixth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into its official language.

40. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, within one year of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 20 (domestic violence), 24 (solitary confinement) and 32 (rights of aliens, including migrants, refugees and asylum seekers) above.

41. The Committee requests the State party to submit its next periodic report by 15 July 2022 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country.

42. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its seventh periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.