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MENNESKE  
RETTIGHEDER**

**PARALLEL REPORT  
TO THE UN HUMAN  
RIGHTS COMMITTEE  
(CCPR)**

**DENMARK 2016**

**PARALLEL REPORT TO THE UN HUMAN RIGHTS COMMITTEE (CCPR)  
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Authors: Mandana Zarreparvar and Lucienne Josephine Lokjær  
Jørgensen.

Editors: Christoffer Badse and Lise Garkier Hendriksen

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Denmark's National Human Rights Institution  
Wilders Plads 8K  
1403 København K  
Phone 3269 8888  
[www.menneskeret.dk](http://www.menneskeret.dk)

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## **ABBREVIATIONS**

DIHR	Danish Institute for Human Rights
ICCPR	International Covenant on Civil and Political Rights
CCPR	Human Rights Committee
NHRI	National Human Rights Institution

# PREFACE

This parallel report is submitted by the Danish Institute for Human Rights for the sixth examination of the Kingdom of Denmark at the UN Human Rights Committee.

The report entails four chapters:

- **Chapter 1** on structural issues regarding the full implementation of human rights in Denmark.
- **Chapter 2** on issues regarding the general provisions of the International Covenant on Civil and Political Rights (ICCPR); domestic implementation and prohibition of discrimination (art. 2) and gender equality (art. 3).
- **Chapter 3** on issues regarding the ICCPR's provisions on subjective rights; prohibition of torture (art.7), prohibition of slavery (art. 8), liberty and security of persons (art. 9), right of detainees to be treated with humanity and dignity (art. 10), freedom of movement (art. 12), protection of aliens against arbitrary expulsion (13), privacy (art. 17), freedom of thought, conscience, religion and belief (art. 18), freedom of opinion, expression and information (art. 19), marriage and family (art. 23), rights of the child (art. 24), equality (art. 26), protection of minorities (art. 27).
- **Chapter 4** on implementation of the ICCPR in Greenland; domestic implementation of prohibition of discrimination (art. 2), gender equality (art. 3), right to life (art. 6), prohibition of torture (art. 7), right of detainees to be treated with humanity and dignity (art. 10), procedural guarantees in civil and criminal trials (art. 14), rights of the child (art. 24), equality (art. 26), protection of minorities (art. 27).

## **THE DANISH INSTITUTE FOR HUMAN RIGHTS – NHRI OF DENMARK AND GREENLAND**

The Danish Institute for Human Rights (DIHR) is Denmark's national human rights institution (NHRI). DIHR was established in 1987 and is regulated by act no. 553 of 18 June 2012 on the Institute for Human Rights – Denmark's National Human Rights Institution.

DIHR is an independent, self-governing institution within the public administration and is established in accordance with the UN Paris Principles. DIHR is accredited as an A-status NHRI.

DIHR is also appointed as National Equality Body in Denmark accordance with EU directives on equal treatment of all persons without discrimination on the grounds of gender and race or ethnic origin. Furthermore, DIHR is designated as the independent mechanism to promote, protect and monitor the

implementation of the UN Convention on the Rights of People with Disability in Denmark and Greenland.

DIHR participates in OP-CAT inspections in Denmark together with DIGNITY – The Danish Institute against Torture – and the Danish parliamentary ombudsman (“Folketingets Ombudsmand”). In areas under the responsibility of the Greenland Self-Government, DIHR participates in OP-CAT inspections together with the Greenlandic parliamentary ombudsman (“Ombudsmanden for Inatsisartut”).

In Denmark, DIHR monitors the human rights situation and publishes annual status reports as well as academic research, analyses and reports on human rights and equal treatment.

Greenland is a self-governed part of the Kingdom of Denmark. DIHR is the national human rights institution of Greenland and works in close cooperation with the Human Rights Council of Greenland to monitor the promotion and protection of human rights. The council is a politically independent council established by law with reference to the UN Paris Principles on National Human Rights Institutions.

DIHR’s mandate does not extend to the Faroe Islands.

## **RECOMMENDATIONS**

This report contains recommendations to the government of Denmark and the self-rule government of Greenland on promotion and protection of human rights in accordance with the ICCPR.

In developing the recommendations, DIHR has prioritised recommendations that are clear, specific and measurable. In order to have an impact the recommendations need to be clear and understandable to all relevant actors, including the state party, stakeholders and the public. By prioritising such recommendations, it will be easier to monitor the follow up process.

Moreover, where relevant, DIHR has made an effort to link the recommendations to the newly adopted Sustainable Development Goals (SDGs), which are underpinned by international human rights standards and instruments (see [www.humanrights.dk/sdg-guide](http://www.humanrights.dk/sdg-guide)). Thereby, the recommendations serve a dual purpose of strengthening the implementation of human rights and contributing to sustainable development in Denmark and Greenland.

## **SOURCES**

This report draws upon several sources of relevant information concerning the human rights situation in Denmark and Greenland. The recommendations are based on:

- Treaty body recommendations
- Recommendations from special procedures or other organisations, such as the Council of Europe
- Parallel reports from DIHR or other stakeholders to UN treaty bodies
- Recommendations from the annual status reports of DIHR
- Recommendations from the status report on Greenland prepared by DIHR in cooperation with the Human Rights Council of Greenland every second year
- Recommendations from independent reports of DIHR and other stakeholders
- DIHR legal briefs



# CHAPTER 1

## 1 STRUCTURAL ISSUES

### 1.1 Ratification of human rights instruments

Denmark has not ratified the following international human rights conventions and protocols:

- The International Convention for the Protection of All Persons from Enforced Disappearance
- The International Convention on the Protection of the All Migrant Workers and Members of their families
- Protocol no. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which concerns a general prohibition against discrimination

Furthermore, Denmark has not accepted the right of individual communications in respect of:

- The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

At its second Universal Periodical Review 21 January 2016, Denmark was recommended to ratify the above-mentioned human rights conventions and protocols.<sup>1</sup> Denmark has noted the recommendations made by the Human Rights Council regarding ratification of the International Convention on the Protection of the All Migrant Workers and Members of their families.<sup>2</sup> Furthermore, Denmark has partly accepted to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, once the necessary legislative amendments are adopted.<sup>3</sup>

**DIHR recommends that Denmark ratify:**

- **The International Convention for the Protection of All Persons from Enforced Disappearance,**
- **The International Convention on the Protection of the All Migrant Workers and Members of their families,**
- **Protocol no. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms,**

- **Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

### **1.2 National action plan on implementation of human rights standards**

Denmark does have action plans on single human rights related issues. However, there is no governmental focus on how human rights are implemented nor a systematic procedure as to how concluding observations and recommendations received from the various UN treaty bodies are followed up on. An action plan on implementation of and follow-up on human rights standards in Denmark is necessary to ensure a proper identification of human rights problems and transparency in implementation and follow-up.

**DIHR recommends that Denmark develop a complete human rights action plan based on a broad and participatory process involving civil society and other relevant stakeholders.**

# CHAPTER 2

## 2 GENERAL PROVISIONS

### 2.1 Domestic implementation (art. 2)

#### 2.1.1 Incorporation

In autumn 2014 as a response to a report by an expert committee established by the government, which in part recommended incorporation of UN core human rights treaties, the Danish Government opted not to incorporate UN human rights treaties into Danish legislation.<sup>4</sup> This was reiterated in Denmark's response to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review. It is Danish government's view that incorporation might entail moving responsibility for compliance from the Parliament to the courts.<sup>5</sup> DIHR finds, however, that an incorporation of core human rights conventions will have a predominantly positive implication on the rule of law. Incorporation will clarify the authority's obligations on how to employ the conventions in the Danish legislative context and strengthen access to justice.

**DIHR recommends that Denmark strengthen the rule of law by incorporating UN human rights core conventions.**

#### 2.1.2 NHRI for the Faroe Islands

The self-ruling government of the Faroe Islands does not yet have an established national human rights institution (NHRI). The Faroe Islands has received recommendation from UN General Assembly (1994) , UN Committee on Economic, Social and Cultural Rights (2013) and at the second Universal Periodical Review of Denmark (January 2016) to establish a national human rights institution.<sup>6</sup> The Faroe Islands has established a working group to look into different models of NHRIs. The working group is expected to give its recommendations by the end of 2016.<sup>7</sup>

**DIHR recommends that the self-ruling government of the Faroe Islands establish an independent NHRI in accordance with the UN Paris Principals on National Human Rights Institutions. This recommendation will contribute to reaching Sustainable Development Goal 16 on peace, justice and strong**

**institutions. In particular, the existence of NHRIs in accordance with the Paris Principles is a global indicator for progress under target 16.a.**

## **2.2 Gender equality (art. 3)**

### **2.2.1 Shortcomings in implementation of gender mainstreaming**

According to the Act on gender equal treatment, public institutions with more than 50 employees must, every other year, prepare a gender equality assessment of the workplace. A study from 2014 indicates that 61 percent of national institutions and 76 percent of municipal institutions had not taken the gender perspective into account for their service provisions.<sup>8</sup>

A review of legislation proposed during session 2013/ 2014 of the Danish Parliament revealed that only 25 pieces of proposed legislation had undergone a gender impact assessment.<sup>9</sup> Gender impact assessment of proposed legislation is a necessary exercise that ensures that resources are optimally used as well as a helpful tool to prevent gender inequality.<sup>10</sup>

In its concluding observations on the eighth periodic report of Denmark, the Committee on the Elimination of Discrimination against Women also notes with concern that the national strategy for gender mainstreaming for the public sector in 2013 did not encompass education and that its on assessing new legislation remains limited in practice. The Committee was further concerned that the municipal government authorities had no strategy or plan for gender mainstreaming.<sup>11</sup>

**DIHR recommends that Denmark strengthen its mainstreaming and equal treatment measures by amending Section 4 of the Act on Equality between Men and Women, including concrete indicators for the overall efforts on gender equality and implement continuous impact assessments. This recommendation will specifically contribute to the implementation of SDG target 5. C, to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.**

### **2.2.2 Domestic violence**

Studies show that domestic violence is persistent in Denmark. An estimated 33.000 women and 13.000 men are on an annual basis subject to violence from their partner.<sup>12</sup> The police has the overall responsibility for enforcing the legislation on domestic violence. However, among the 12 police districts there are differences as how the legislation is understood and which measures are in

place. The consequence of differentiated practise, is varying protection for victims of domestic violence across Denmark.<sup>13</sup>

Prevention and protection against violence and enforcement of the criminal law is necessary in order to uphold the rule of law. It is pertinent that enforcement authorities react promptly and adequately toward any form of gender based violence.<sup>14</sup>

**DIHR recommends that Denmark ensure a consistent and effective practice in all police districts, in order to provide immediate and adequate protection of victims of domestic violence. This recommendation specifically contribute to reaching SDG target 5.2. to eliminate all forms of violence against all women in the private sphere, and target 16.1 to significantly reduce all forms of violence everywhere.**

# CHAPTER 3

## 3 SUBJECTIVE RIGHTS

### 3.1 Prohibition of torture (art.7)

#### 3.1.1 Torture as an offence

The Committee against Torture considered the combined sixth and seventh periodic reports of Denmark at its 1266<sup>th</sup> and 1369<sup>th</sup> meetings 16 and 17 November 2015.<sup>15</sup> In its concluding observations, the Committee raised concern regarding the lack of qualifying torture as an independent punishable offence. Section 157a of the Danish Penal Code and Section 27A of the Military Criminal Code qualify torture as an aggravating circumstance for the determination of a sentence rather than establishing it as an offence in itself.<sup>16</sup>

**DIHR recommends that Denmark recognise torture as a distinct offence.**

#### 3.1.2 Coercion in psychiatric treatment

Physical immobilisation lasting more than 48 hours occurs regularly in Danish psychiatric hospitals.

Coercion in mental health treatment affects the right to personal liberty and respect for physical and psychological integrity. These rights are for instance protected by ICCPR, The UN Convention Against Torture (CAT), ECHR and CRPD. According to CRPD article 14 member states shall ensure that the existence of a disability in no case justifies a deprivation of liberty. Article 17 confirms the right to respect for the physical and mental integrity on an equal basis with others. According to the European Committee for the Prevention of Torture (CPT) applying physical restraint to psychiatric patients for several days cannot have any medical justification and amounts to ill-treatment. In 2014, CPT expressed serious concern about the frequent and prolonged use of immobilisation in Danish psychiatric hospitals, which had increased despite measures taken to reduce immobilisation. Particularly the use of immobilisation for more than 48 hours had steadily increased and reached all-time peaks in 2012 and 2013. In 2014, CRPD also expressed concern about coercive treatment in Danish psychiatric institutions.

The Danish Parliament has adopted an act in 2015, which increases the rights of patients in psychiatric institutions and introduces increased control measures for immobilisation. The act however does not abolish the use of physical immobilisation lasting longer than 48 hours. The use of physical immobilisation for more than 48 hours has decreased in 2015, but still used in 550 cases. Research shows that it is possible to reduce the use of physical immobilisation in psychiatric treatment.

DIHR recommends that Denmark abolish the use of forced physical restraints lasting more than 48 hours.

DIHR furthermore recommends that Denmark limit the use of coercive measures in psychiatric institutions through legislative amendments and revision of guidelines.

### **3.2 Review of counter-terrorism measures and respect for rights guaranteed in the covenant (arts. 7, 9 and 14)**

Since 2001, Denmark has taken measures and adopted legislation to counter-terrorism. In the aftermath of the Charlie Hebdo attacks in Paris (January 2015) and the following shootings in Copenhagen (February 2016) further initiatives have been taken to counter-terrorism. The most recent counter-terrorism legislation (the third “package” since 2001), has its focus on further expanding surveillance measures against Danish residents while they are abroad and are found to take part in activities which can pose a terrorism threat against Denmark and Danish interests.<sup>17</sup>

In its first Universal Periodic Review (2011), Denmark was recommended to establish an independent evidence-based review of the anti-terrorism measures and legislation in order to ensure that these measures adhere to international human rights standards and respect the right to privacy.<sup>18</sup> During the second Universal Periodic Review Denmark once again was recommended to review its counter-terrorism measures and legislation.<sup>19</sup>

Draft list of issues prior to the submission of the sixth report of Denmark (CCPR/C/DNK/6) paragraph 8 also request an update of information on how counter-terrorism measures ‘have affected human rights safeguards in law and practice’.

Denmark in response to the recommendations set out under the second Universal Periodic Report, accepted the recommendation even though it has not planned a review. Additionally, the State party writes that ‘[a]ny necessary amendments will be in full compliance with Denmark’s human rights obligations.’<sup>20</sup>

**DIHR recommends that Denmark without delay establish an independent commission to review measures and legislation adopted on counter-terrorism and their impact on human rights.**

### **3.3 Right of detainees to be treated with humanity and dignity (art. 10)**

#### **3.3.1 Pepper spray in detentions**

Use of pepper spray in detentions is regulated by legislation. However, a report compiled by DIHR in 2014 shows that the application of pepper spray is still frequent by the police in detentions.<sup>21</sup> In its concluding observations the Committee against Torture recommended Denmark to take measures to further restrict the use of pepper spray and prohibit its use in confined spaces, on persons with mental disabilities or on individuals who have been brought under control.<sup>22</sup>

**DIHR recommends that Denmark take measures to clarify precisely when and where pepper sprays may be applied in detentions and that pepper spray should not be used in closed rooms or against detainees who have been brought under control.**

#### **3.3.2 Conditions for detained foreigners**

Foreigners can be subject to administrative detention in accordance with the Danish Aliens Act in order to ensure enforcement of among others refusal of entry, administratively expulsion, transfer and return. In November 2015, a bill aiming at providing the authorities with the necessary tools to handle the extraordinary challenges that can arise if a large influx of refugees and migrants enter Denmark, was presented in Parliament without the usual consultation process and later adopted. The amendments among others included a more consistent use of detention in relation to rejected asylum seekers and foreigners without a right to stay in Denmark.

In February 2016, the Danish Parliamentary Ombudsman together with DIGNITY – Danish Institute Against Torture – and DIHR made an unannounced visit to the detention facility ‘Vridsløselille’ (a closed-down state prison). The Ombudsman afterwards expressed grave concern regarding the conditions for the detained foreigners, among others that the foreigners were being held inside single inmate cells almost 24 hours a day. The Ombudsman also among others recommended the introduction of a screening for torture and risk of suicide of newly arrived foreigners. The report made by the Ombudsman exemplifies the implications of the amendments in November 2015.



The conditions for detained foreigners, including the lack of a sufficient medical examination, have also been criticized by UN and Council of Europe agencies the last years.<sup>23</sup>

**DIHR recommends that Denmark ensure that detention of foreigners is only carried out under appropriate conditions and that detention is omitted if facilities and conditions are not appropriate.**

**DIHR further recommends that Denmark ensure that a mandatory and more thorough medical examination of all potential detained foreigners is carried out with the presence of a certified interpreter.**

### **3.3.3 Judicial review of detention of foreigners**

Detention of foreigners are subject to a judicial review automatically within 72 hours of commencement of the deprivation of liberty, if it is considered necessary to uphold detention. With the amendment in November 2015, the Minister of Immigration, Integration and Housing was by law given a possibility to suspend this right if special circumstances apply. The possibility to suspend is meant to be applied in situations where a large influx of refugees and migrants makes it practically impossible for the authorities to comply with the 72 hour rule. If the right is suspended, the case will be brought before a court as soon as possible and only at the request of the detainee.

There is no time limit for the length of detention without judicial review if the 72 hour rule is suspended.

**DIHR recommends that Denmark adopt a time limit for the length of detention of foreigners without judicial review. This recommendation will contribute to reaching SDG target 16.3. to promote the rule of law and ensure equal access to justice for all.**

## **3.4 Freedom of thought, conscience, religion and Belief (art. 18)**

### **3.4.1 Interpretation of freedom of religion or belief in line with international standards**

OHCHR's Special Rapporteur on freedom of religion or belief visited Denmark 13-22 March 2016.<sup>24</sup> In his preliminary findings he emphasized the need for the Danish Government to play a leading role in further developing a fair and inclusive society in which members of different religious communities as well as more secular oriented people can feel included. The Special Rapporteur finds that the current political suggestions to limitations on freedom of religion or

belief, which will have an impact on religious minorities in Denmark, must meet a number of criteria in accordance with international standards accepted by Denmark.<sup>25</sup>

**DIHR recommends that Denmark review legal measures adopted to curb religious extremism to ensure that they comply with human rights standards.**

### **3.4.2 Freedom of religion under pressure**

The Danish Security and Intelligence Service reports on possible extremist motivated crime indicate a rise in number of assaults on ground of religion or belief.<sup>26</sup> According to the Special Rapporteur, the Muslim and Jewish communities are in particular under pressure in the aftermath of the attacks on Charlie Hebdo magazine in Paris, France, in January 2015 and the shooting episodes at a conference on freedom of expression and the synagogue in Copenhagen in February 2016.<sup>27</sup> Hence making individuals belonging to Muslim and Jewish communities more vulnerable to hate related crime on ground of religion or belief due to their visibility in form of religious dress codes or religious symbols.

The Jewish Society reports 53 anti-Semitic incidents in 2014.<sup>28</sup> In a survey conducted by the European Union's Fundamental Rights Agency (2016), experts rated the severity of hate crime based on religion and belief. 37 percent of the experts assessed that hate crime against the Jewish community was either very or fairly serious. Similarly, the assessment was 49 percent against the Muslim community.<sup>29</sup>

**DIHR recommends that Denmark intensify its efforts to reach out proactively to victims of hate crime and encourage their reporting, including the establishment of specialised police units.**

## **3.5 Freedom of opinion, expression and information (art.19, 20)**

### **3.5.1 Civil servants freedom of expression**

The Danish Parliamentary Ombudsman initiates most of its investigations based on complaints lodged by citizens. Only 12 percent of the cases are initiated *ex officio*. However, in cases regarding civil servants' freedom of expression the Ombudsman has initiated 52 percent of the cases *ex officio*.<sup>30</sup> Surveys conducted indicate that civil servants are not aware of their right to freedom of expression. Guidelines in the area seem also to be unclear, especially as to when a civil servant can exercise his/her right of expression to notify authorities of circumstances that breach human rights for instance, coercive measures in a psychiatric ward or ill treatment of prisoners of war during military operations.

**DIHR recommends that Denmark implement central and local initiatives to disseminate knowledge on legislation regarding civil servants' right to expression and clearly describe the rules on the right to notify in critical circumstances.**

**DIHR recommends further, that Denmark adopt legislation to enable shared burden of proof in cases where a civil servant is illegally laid off due to exercising his/her right to freedom of expression. These recommendations will contribute to achieving SDG target 16.10 ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.**

### **3.5.2 Legislative provisions protecting blasphemy**

The Danish Penal Code Section 140 criminalises blasphemy. Even though the provision is seldom used, there is a possibility that it can be applied, thereby infringing the right to freedom of opinion. In its General Comment no. 34, the Human Rights Committee states that, '[n]o person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature.'<sup>31</sup> By maintaining a provision that criminalises blasphemy, Denmark does not comply with ICCPR article 20, 2.

**DIHR recommends that Denmark repeal Section 140 of the Penal Code regarding criminalisation of blasphemy.**

## **3.6 Marriage and family (art. 23)**

### **3.6.1 Family reunification for beneficiaries of temporary protection status**

Due to an increasing number of applicants for international protection, the Parliament in February 2015 passed a bill introducing a new group of beneficiaries of international protection – temporary protection status. As a rule, this group could not be granted family reunification for the first year. In February 2016, the Parliament prolonged the period of one year to three years. The law provides some examples of exceptions to the rule.

It is DIHR's assessment that the three-year waiting period for family reunification conflicts with the beneficiaries' right to a family life.

**DIHR recommends that Denmark abolish the three-year restriction of access to family reunification for beneficiaries of temporary protection status.**

### **3.7 Rights of the child (art. 24)**

#### **3.7.1 Children in solitary confinement**

The Danish Administration of Justice Act allows the placement of remand prisoners in solitary confinement for a period of up to four weeks for minors (15 year old to 18 year old). Furthermore, solitary confinement is used as a disciplinary measure for convicted minors for a period of up to 28 days. In its concluding observations from 4 February 2016, the Committee against Torture raised concern of minors being subject to solitary confinement and recommend Denmark to bring its legislation and practice on solitary confinement into line with international standards by abolishing solitary confinement of minors and as a disciplinary measure in law.<sup>32</sup>

Denmark also received recommendations to curb or abolish the use of solitary confinement of minors during the Universal Periodic Review 21 January 2016.<sup>33</sup>

**DIHR recommends that Denmark abolish the use of solitary confinement of children and juveniles. This recommendation contributes to reaching SDG target 16.2 to end abuse, exploitations, trafficking and all forms of violence against and torture of children.**

#### **3.7.2 A national action plan on the rights of the child**

During the UPR in 2011, Denmark was recommended to develop a national action plan for human rights. In 2011, the UN Committee on the Rights of the Child also recommended that Denmark develop a plan of action for the full implementation of the Convention with specific time-bound and measurable goals and targets to effectively monitor progress.

The work to promote human rights in Denmark can be strengthened through the development and implementation of national action plans focusing on the rights of particular groups across different sectors of society, for instance children.

**DIHR recommends that Denmark develop and implement human rights national action plans, in particular on the rights of the child.**

### **3.8 The right to vote for persons under legal guardianship (art.25)**

According to the Danish Ministry of Justice, section 29 of the Danish Constitution prohibits that persons under legal guardianship are allowed to vote and stand for national election. DIHR disagrees with this interpretation of the Danish Constitution since this limitation does not pursue the original intention of section 29 of the Constitution. Section 29 of the Constitution aims at other groups of persons than persons under section 6 guardianships.

**DIHR recommends that Denmark amend national legislation so that persons under legal guardianship are allowed to vote and stand for national parliamentary election. This recommendation will contribute to achieving SDG target 16.7 to ensure responsive, inclusive, participatory and representative decision-making at all levels.**

### **3.9 Equality (art. 26)**

#### **3.9.1 Insufficient equality legislation**

Denmark has repeatedly received recommendations from different human rights mechanisms to adopt a general antidiscrimination legislation in order to ensure protection against discrimination not only in relation to employment, as it is the case right now, but also in access to goods and services for all grounds of discrimination. The latest recommendation to this effect comes from Denmark's second Universal Periodic Review 21 January 2016.<sup>34</sup>

The Danish legislation prohibiting discrimination provides an insufficient protection against discrimination on grounds of age, sexual orientation, disability, religion or belief in access to goods and services.

**DIHR recommends that Denmark expressly prohibit discrimination of persons with disabilities outside the labour market.**

**DIHR recommends furthermore, that Denmark expressly in civil law prohibit discrimination outside the labour market due to religious belief, sexual orientation or age.**

**These recommendations will contribute to the realisation of SDG target 10.3. to ensure equal opportunity and reduce inequalities of outcome, including by promoting appropriate legislation, and target 16.b to promote and enforce non- discriminatory laws and policies for sustainable development.**

### **3.9.2 Interpretation in criminal procedures**

DIHR completed a report in 2016 on interpretation in Danish criminal procedures.<sup>35</sup> The report concludes that the interpretation provided in criminal procedures, especially in court, is of poor quality. Only the circumstances determine whether a person discovers that there are omissions or errors in the interpretation. Criminal procedures can therefore entail issues of due process and judgments can be made based on uncertain basis.<sup>36</sup>

**DIHR recommends that Denmark strengthen due process for people needing assistance from an interpreter by establishing an education programme for interpreters, aimed specifically at refugee and migrant languages.**

### **3.9.3 Underreporting**

According to the Danish National Integration Barometer, 43 percent of persons with either migrant or descendent of migrant background have experienced discrimination based on their ethnicity.<sup>37</sup> However, the number of persons reporting discrimination is in comparison very low. In 2014, the Board of Equal Treatment had received only 37 complaints on the grounds of race and ethnic origin.<sup>38</sup> The reason for the low number of reporting on discrimination on the grounds of race and ethnic origin as well the low registration of hate crime incidents might be explained by a lack of knowledge of ones rights, a low trust in the institutions dealing with these cases and structural barriers.<sup>39</sup> Structural barriers is in particular a problem when the Board of Equal Treatment in cases related to race or ethnic origin, due to lack of evidence is often forced to drop the case. The Board's case handling is on a written basis only, which to some can be a barrier in itself.

In its concluding observations, the Committee on Elimination of Racial Discrimination recommends Denmark to intensify its efforts to raise awareness about legislation and facilitate access to remedies for victims of discrimination.<sup>40</sup>

**DIHR recommends that Denmark strengthen the mandate of the Board of Equal Treatment by amending legislation to allow oral submissions as well as enabling the Board to hear witnesses.**

### **3.9.4 Involuntary admissions to psychiatric institutions**

Psychiatric patients with an ethnic minority background are hospitalized more frequently compared to patients with Danish ethnic origin.

This applies especially to groups of male refugees and family reunified women according to the Danish study, Excess use of coercive measures in psychiatry

among migrants compared with native Danes.<sup>41</sup> 22.5 percent of refugee patients were committed compulsorily, whereas this was only the case for 13.9 percent of a comparable group of persons born in Denmark by Danish parents.<sup>42</sup>

Avoiding coercion requires clear communication between patient and doctor. If the patient does not sufficiently master the Danish language, use of qualified interpretation services is crucial to ensure clear communication.

**DIHR recommends that Denmark take precautionary measures to prevent involuntary admission to psychiatric institutions by ensuring a clear and good communication in order to obtain consent from the patient, including ensuring qualified interpretation is available before beginning treatment.**

# CHAPTER 4

## 4 IMPLEMENTATION OF ICCPR IN GREENLAND

### **4.1 Domestic implementation of prohibition of discrimination (art.2), Gender equality (art.3) and Equality**

#### **4.1.1 Lack of a general prohibition on discrimination as well as a complaints procedure**

A general prohibition on discrimination on the grounds of race and ethnic origin, age, religion, sexual orientation and disability has not been introduced in Greenland. Discrimination in the labour market on these grounds is not prohibited. There is no protection against discrimination outside the labour market, i.e. in social security, health services, education and in goods and services, including housing.

Gender discrimination is prohibited by the Greenlandic act on equality of men and women, which establishes the Council of Gender Equality in Greenland.<sup>43</sup> Danish gender equality law does not apply to Greenland. The mandate of the Council of Gender Equality in Greenland includes examining, on its own initiative or by request, measures relating to gender equality. The preparatory works of the act underlines that the council is not obligated to consider cases referred from individuals. However, the council can decide to give advice to individuals if this is deemed relevant.<sup>44</sup>

In cases on discrimination (all grounds), no national complaints procedure for individuals exists other than taking a case to court or (concerning public authorities) refer the case to the parliamentary ombudsman (*Ombudsmanden for Inatsisartut*).

**DIHR recommends that Greenland adopt civil legislation to prohibit discrimination based on race and ethnic origin, age, religion, sexual orientation and disability within and outside of the labour market.**

**DIHR furthermore recommends that Greenland adopt legislation to establish an equal treatment body to ensure access to an effective remedy for individuals who experience discrimination.**



**These recommendations will contribute to the realisation of SDG target 10.3. to ensure equal opportunity and reduce inequalities of outcome, including by promoting appropriate legislation, and target 16.b to promote and enforce non-discriminatory laws and policies for sustainable development.**

#### **4.2 Right of detainees to be treated with humanity and dignity (art. 10)**

##### **4.2.1 Criticisable conditions in police detention facilities**

In Greenland, police detention facilities are used for detention of persons under criminal procedure law as well as for detention of persons in police custody of other reasons. Some of these facilities are without constant police surveillance.

Inspections in 2013 of five towns and villages gave the Danish Parliamentary Ombudsman (*Folketingets Ombudsmand*) reasons to request further information from the Danish Ministry of Justice and the police in Greenland. The police in Greenland is under the auspices of the Danish National Police and the Danish Ministry of Justice, as the justice area in Greenland has not been taken over by the Self-rule and thus is the responsibility of the authorities of the Kingdom of Denmark.

One of the inspected facilities was a detention facility without constant police surveillance. The persons detained did not have access to call for personnel and did not have access to food, drink or visits to the toilet unless the local police authority was present.

**DIHR recommends that Denmark inform the committee on the steps taken to address the concerns and recommendations by the Danish Parliamentary Ombudsman relating to conditions in Greenlandic police detention facilities.**

#### **4.3 Procedural guarantees in civil and criminal trials (art. 14)**

##### **4.3.1 Lack of transparency in legislative processes and poor access to law and case law**

Greenland does not operate with consolidated acts, which means that original legislation and subsequent amendments are not consolidated in one document. This makes it difficult to get an overview of which legislation is current and applicable.

There is no publicly accessible database containing both historical and current Greenlandic law and historical as well as current law of the Kingdom of Denmark applicable in Greenland. Greenlandic law is published on-line and searchable since 2010 with references as to whether documents are historical or current.

Danish law applicable in Greenland is published on-line since 2008, is searchable but has no indication of whether documents are repealed or still current.<sup>45</sup>

Revision and quality assurance is needed for laws of the Kingdom of Denmark which are put into force for Greenland (Rigslovgivning). Danish legislation for Greenland is rarely adopted through a regular law process in the Danish parliament. Instead, Danish laws made for Danish conditions are put into force in Greenland by Danish royal decrees (anordninger). Adjustments to Greenlandic conditions takes place to a limited extent. However, as decrees have no preparatory works, no guidance to the interpretation of the provisions of the legislation for Greenland is provided. The preparatory works made for the original Danish act are accessible but provide little or no guidance in a Greenlandic context. Clear, concise and useful legislation is required in every aspect of law for which Denmark is responsible, including legislation for Greenland in areas not governed by Greenland self-rule.

A further challenge is the lack of public access to Greenlandic case law. No systematic publishing takes place of jurisprudence from leading cases/test cases. This makes it difficult to find jurisprudence from the courts of Greenland for professionals as well as for citizens.

**DIHR recommends that Greenland introduce the concept of consolidated acts in Greenlandic law to improve foreseeability and accessibility and establish a database containing relevant Greenlandic case law.**

**DIHR recommends that Greenland and Denmark establish a database containing primary and secondary law of Greenland and all applicable laws of the Kingdom of Denmark covering Greenland.**

**DIHR recommends that Denmark limit the use of royal decrees (anordninger) as a tool for regulating Greenlandic conditions and increase the use of specified laws for Greenland taking Greenlandic context onto account adopted by the Danish parliament.**

#### **4.3.2 Language problems and unclear legal terminology in the courts of Greenland**

The administration of justice is an area not taken over by the Greenlandic self-rule. The area is thus covered by Danish law specifically aiming at Greenlandic conditions.

Both Greenlandic and Danish is applicable in Greenlandic courts.<sup>46</sup> It is for the judge to decide whether Greenlandic or Danish will be applied in court proceedings. The act on the administration of justice in Greenland guarantees

that some legal documents, including indictments, the evidence summary (bevisfortegnelse), judgements and decisions on appeal should be made available in a language understood by the parties of a case.<sup>47</sup> This, however, does not guarantee that other central documents of evidence are available in a language understood by the parties. Evidence provided by public authorities is almost always provided in Danish, whereas the mother tongue of most people in Greenland is Greenlandic. This impairs the right of primarily Greenlandic speaking/reading persons to prepare and present their case in court.

Confusion of legal terms is frequent as different interpreters and translators translate Danish legal terms differently in Greenlandic.

**DIHR recommends that Denmark in dialogue with Greenland make written evidence – not only the evidence summary – available in a language that is well understood by the parties in a court case and establish a Greenlandic commission for legal terminology that ensures a uniform understanding of key legal concepts in Greenlandic and Danish.**

#### **4.4 Rights of the child (art. 24)**

##### **4.4.1 Negligence in caring for children**

Most children in Greenland do well and have normal and functional lives. However, this is not the case for some 5000 children who have serious problems in their lives, are subject to bullying in school, and are lonely and reclusive. Recent studies show that a significant number of Greenlandic children do not thrive due to sexual and physical abuse or negligence by parents who are suffering from alcohol abuse or parents' lack of economic, personal and social resources. Even though there is a right to education for all children, the primary school education standards do not meet the scholastic qualities necessary to enable Greenlandic children to complete higher educations and be competitive enough in acquiring employment. Lack of adequate housing compounds the social and economic problems Greenlanders have to face.

The Danish National Centre for Social Research – SFI (Det Nationale Forskningscenter for Velfærd –SFI) in its latest report (April 2015) commissioned by the Greenlandic government, Naalakkersuisut, notes that every other woman and every other third male indicated that they have been subject to sexual contact with an adult before they turned 15 years of age. Seven percent indicated that their first sexual contact occurred before they had turned 7 years of age.<sup>48</sup>

There is general lack of human resources and knowledge among the Greenlandic municipal authorities to have in place measures to prevent maltreatment and child abuse and to intervene in families where children are at risk or are being abused.

**DIHR recommends that Greenland reform and upgrade municipal competences and accountability in order to apply constructive measures and promote protection of the child against violence and assist families in rehabilitation efforts on substance abuse and addiction. This recommendation contributes to the realisation of SDG target 16.2. to end abuse, exploitations, trafficking and all forms of violence against and torture of children.**

#### **4.5 Equality (art. 26)**

##### **4.5.1 Persons with disability**

Persons with disabilities in Greenland, including children, have limited access to support, including physical aids, counselling, educated professionals and appropriate housing. Some persons with severe disabilities are placed in foster homes far away from their family, some even in Denmark because of lack of possibilities in Greenland.

Little knowledge, research and baseline data is available relating to persons with disabilities in Greenland in many aspects, including accessibility as well as the right to education of persons with disabilities.

**DIHR recommends that Greenland take measures to systematically collect data and statistics relating to the situation of persons with disabilities in Greenland. This recommendation contributes to achieving SDG target 17.18. to increase significantly the availability of high- quality, timely and reliable data disaggregated by disability and other characteristics relevant in national contexts.**

# END NOTES

<sup>1</sup> Human Rights Council, Twenty-fourth session, Geneva 18-29 January, A/HRC/WG.6/24/L.7, Draft report of the Working Group on the Universal Review- Denmark, 1 February 2016. (Recommendation no. 121.5, 121.6, 121.7, 121.8, 121.9, 121.10, 121.11, 121.12, 121.13, 121.14, 121.15, 121.18, 121.19, 121.1, 121. 2)

<sup>2</sup> The Kingdom of Denmark's response to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review on 21 January 2016, 121.5-121.10, 4 April 2016.

<sup>3</sup> The Kingdom of Denmark's response to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review on 21 January 2016, 121.15, 121.20, 4 April 2016.

<sup>4</sup> Information, 'The Government: Conventions will not be incorporated in Danish Legislation' (Regering: Konventioner bliver ikke en del af dansk lov), 22 November 2014. <https://www.information.dk/indland/2014/11/regeringen-konventioner-del-dansk-lov>

<sup>5</sup> The Kingdom of Denmark's response to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review on 21 January 2016, 121.15, 121.20, 4 April 2016

<sup>6</sup> Human Rights Council, Twenty-fourth session, Geneva 18-29 January, A/HRC/WG.6/24/L.7, Draft report of the Working Group on the Universal Review- Denmark, 1 February 2016, recommendation no. 41 (Poland)

<sup>7</sup> DIHR was informed orally of the establishment of the working group at a meeting with a representative of the Faroes home-rule government on 11 May 2016.

<sup>8</sup> 'Redegørelse/Perspektiv- og handlingsplan 2014; Resultater af ligestillingsredegørelser 2013 Hovedrapport, oktober 2014'.

<sup>9</sup> [politiken.dk/indland/ECE2383514/ministerier-sylter-ligestillingsvurderinger-af-lovforslag/](http://politiken.dk/indland/ECE2383514/ministerier-sylter-ligestillingsvurderinger-af-lovforslag/).

<sup>10</sup> [sm.dk/filer/arbejdsomrader/ligestilling/lovgivning-om-ligestilling/vejledning\\_til\\_ligestillingsvurdering\\_af\\_lovforslag\\_200313-1.pdf](http://sm.dk/filer/arbejdsomrader/ligestilling/lovgivning-om-ligestilling/vejledning_til_ligestillingsvurdering_af_lovforslag_200313-1.pdf).

<sup>11</sup> United Nations, Convention on the Elimination of All Forms of Discrimination against Women, Concluding observations on the Eight periodic report of Denmark, CEDAW/C/DNK/CO/8, 11 March 2015, pp 3 and 4

<sup>12</sup> Karin Helweg-Larsen, 'Domestic Violence' (Vold i nære relationer), Statens Institut for Folkesundhed, 2012, and Rikke Plauborg, Karin Helweg-Larsen, 'Domestic violence against men in Denmark' (Partnervold mod mænd i Danmark), Statens Institut for Folkesundhed, 2012.

<sup>13</sup> Nell Rasmussen, 'Right to Life without Violence' (Ret til et liv uden vold), 2014, DIHR, Chapter 5.

<sup>14</sup> Istanbul Convention Chapter VI.

<sup>15</sup> United Nations, Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment, Concluding observations on the combined sixth and seventh periodic reports of Denmark, CAT/C/DNK/CO6-7, 4 February 2016

<sup>16</sup> United Nations, Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment, Concluding observations on the combined sixth and seventh periodic reports of Denmark, CAT/C/DNK/CO6-7, 4 February 2016, pp 2 and 3

<sup>17</sup> Act no. 1571 of 15 December 2015 amending the law on the Defence Intelligence Service (FE) (Strengthened efforts towards activities abroad which may pose a terrorism threat Denmark and Danish interests).

<sup>18</sup> United Nations, General Assembly, Human Rights Council, Eighteenth session, Agenda item 6

Universal Periodic Review, Report of the Working Group on the Universal Periodic Review, Denmark, A/HRC/18/4, 11 July 2011

<sup>19</sup> Human Rights Council, Twenty-fourth session, Geneva 18-29 January, A/HRC/WG.6/24/L.7, Draft report of the Working Group on the Universal Review- Denmark, 1 February 2016 (Recommendation no. 40 and 197)

<sup>20</sup> The Danish Ministry of Foreign Affairs, The Kingdom of Denmark's response to the recommendations set out by UN Human Rights Council in the Universal Periodic Review on 21 January 2016, March 2016

<sup>21</sup> DIHR, 'The use of pepper spray in Danish prisons and remand centres' ('Brug af Peberspray i danske fængsler og arresthuse'), DIHR 2014.

<sup>22</sup> United Nations, Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment, Concluding observations on the combined sixth and seventh periodic reports of Denmark, CAT/C/DNK/CO6-7, 4 February 2016 p 5

<sup>23</sup> Council of Europe, Commissioner for Human Rights, 'Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe, Following his visit to Denmark from 19 to 21 November 2013', 24 March 2014, available in English at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBl obGet&InstranetImage=2487451&SecMode=1&DocId=2121972&Usage=2>.

Council of Europe, The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 'Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014', 17 September 2014, available in English at: <http://www.cpt.coe.int/documents/dnk/2014-25-inf-eng.pdf>.

UN Committee against Torture, Concluding observations on the combined sixth and seventh periodic reports of Denmark, CAT/C/DNK/CO/6-7, 4 February 2016.

<sup>24</sup> Preliminary findings of Country visit to Denmark by Heiner Bielefeldt Special Rapporteur on Freedom of religion or belief, 13-22 March 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18500&LangID=E>

<sup>25</sup> Preliminary findings of Country visit to Denmark by Heiner Bielefeldt Special Rapporteur on Freedom of religion or belief, 13-22 March 2016, p 15 and 16

<sup>26</sup> The Danish Security and Intelligence Service (PET), 'Crime based on possible extremist background 2012' (Kriminelle forhold i 2012 med mulig ekstremistisk baggrund), September 2013, page 5.

<sup>27</sup> Preliminary findings of Country visit to Denmark by Heiner Bielefeldt Special Rapporteur on Freedom of religion or belief, 13-22 March 2016, pp 6 - 10

<sup>28</sup> Report on 'Anti-Semitic cases in Denmark, 2014' (Rapport om antisemitiske hændelser i Danmark 2014). Published by the Jewish Community in Denmark. March 2015.

<sup>29</sup> EU Fundamental Rights Agency, 'Ensuring justice for hate crime victims: professional perspectives', 2016 available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-justice-hate\\_crime-victims\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-justice-hate_crime-victims_en.pdf), p 17 figure 1.1.

<sup>30</sup> <http://www.ftf.dk/aktuelt/ftf-analyse/artikel/ombudsmanden-offentligt-ansatte-toer-ikke-selv-koere-sager-om-ytringsfrihed/>

<sup>31</sup> United Nations, International Covenant on Civil and Political Rights, General comment No. 34

Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 12 September 2011, pp 2 and 3

<sup>32</sup> United Nations, Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment, Concluding observations on the combined sixth and seventh periodic reports of Denmark, CAT/C/DNK/CO6-7, 4 February 2016, p 5

<sup>33</sup> Human Rights Council, Twenty-fourth session, Geneva 18-29 January, A/HRC/WG.6/24/L.7, Draft report of the Working Group on the Universal Review- Denmark, 1 February 2016 ( recommendation no. 131 – 136)

<sup>34</sup> Human Rights Council, Twenty-fourth session, Geneva 18-29 January, A/HRC/WG.6/24/L.7, Draft report of the Working Group on the Universal Review- Denmark, 1 February 2016 ( recommendations no. 25, 64, 65,66,67,68,69,75,76,77,84)

<sup>35</sup> Line Vikkelsø Slot, 'Interpretation in Justice System' (Tolkning i Retsvæsnat), DIHR, 2016

<sup>36</sup> Line Vikkelsø Slot, 'Interpretation in Justice System' (Tolkning i Retsvæsnat), DIHR, 2016 pps 8 and 9

<sup>37</sup> The National integration Barometer, <http://integrationsbarometer.dk/graph-view?goal=5&kommunenr=0>

<sup>38</sup> The Danish Security and Intelligence Service (PET), 'Crime based on possible extremist background 2012' (Kriminelle forhold i 2012 med mulig ekstremistisk baggrund), September 2013, side 5.

<sup>39</sup> EU Fundamental Rights Agency, 'Ensuring justice for hate crime victims: professional perspectives', 2016 available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-justice-hate\\_crime-victims\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-justice-hate_crime-victims_en.pdf)

<sup>40</sup> United Nations, International Convention on the Elimination of All forms of Racial Discrimination, Concluding observations on the combined twentieth and twenty –first reports of Denmark, CERD/C/DNK/CO/20-21, 12 June 2015.

<sup>41</sup> Nørredam M., Garvia-Lopez A., Keiding N. & Krasnik A. (May 2009) Excess use of coercive measure in psychiatry among migrants compared with native Danes, *Acta Psychiatrica Scandinavia*, feb. 2010, vol. 121, issue 2, pp 143-151

<sup>42</sup> Nørredam M., Garvia-Lopez A., Keiding N. & Krasnik A. (May 2009) Excess use of coercive measure in psychiatry among migrants compared with native Danes, *Acta Psychiatrica Scandinavia*, feb. 2010, vol. 121, issue 2, pp 143-151, table 2

<sup>43</sup> Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women (*Inatsisartutlov nr. 3 af 29. november 2013 om ligestilling af mænd og kvinder*).

<sup>44</sup> Preparatory works to Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women, special remarks to section 27(1), page 34 (*Bemærkninger til forslaget, EM 2013/112, 30. juli 2013, til § 27, stk. 1, s. 34*).

<sup>45</sup> Greenlandic law is since 2010 published at [inatsisit.gl /lovgivning.gl](http://inatsisit.gl/lovgivning.gl). Danish law applicable to Greenland is since 2008 published on-line at [lovtidende.dk](http://lovtidende.dk). Older, still current, Danish law for Greenland is included in the Danish Prime Minister's annual yearbook "Grønlandsk Lovsamling", published in pdf format and available through [inatsisit.gl /lovgivning.gl](http://inatsisit.gl/lovgivning.gl).

<sup>46</sup> Danish act no. 305 of 30 April 2008 on the Administration of Justice in Greenland (*lov nr. 305 af 30/04/2008 Retsplejelov for Grønland*).

<sup>47</sup> Danish act no. 305 of 30 April 2008 on the Administration of Justice in Greenland (*lov nr. 305 af 30/04/2008 Retsplejelov for Grønland*), sections 438 (indictments), 443 (evidence summary), 478 (judgements) as well as 539 and 553 (appeal).

<sup>48</sup> "Unge i Grønland – med fokus på seksualitet og seksuelle overgreb" ("Young in Greenland – focus on sexuality and sexual abuse"), the Danish National Centre for Social Research – SFI (*Det Nationale Forsknings Center for Velfærd –SFI*), april 2015, available in Danish only at [http://www.sfi.dk/resumé\\_unge\\_i\\_grønland-med\\_fokus\\_på\\_seksualitet\\_og\\_seksuelle\\_overgreb-15490.aspx](http://www.sfi.dk/resumé_unge_i_grønland-med_fokus_på_seksualitet_og_seksuelle_overgreb-15490.aspx)



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