

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

HUMAN RIGHTS
IN DENMARK

STATUS 2015-16
A SUMMARY



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PREFACE

In this fourth issue of its status report, the Danish Institute for Human Rights provides a current overview of the most important human rights challenges facing Denmark.

A prerequisite for protecting and promoting human rights is to have an overview of the situation in all major areas and to systematically monitor developments. Monitoring and reporting the human rights situation in Denmark is one of the Danish Institute for Human Rights' core responsibilities as Denmark's national human rights institution.

Our status report consists of 22 thematic reports covering topics ranging from asylum, data protection, family life, through gender equality and deprivation of liberty, to expulsion and the rights of elderly. To these should be added this summary, which provides a brief insight into the contents of the 22 thematic reports relating to the most recent developments and most important recommendations. The thematic reports, which are 25–50 pages each, and in Danish only, can be downloaded from our website: www.menneskeret.dk/status.

We place great emphasis on being in dialogue with all major human rights actors and with the public. This year, therefore, we have chosen to listen to what civil society has to say about the contents of the thematic reports. We have received a number of relevant comments from our consultation partners, and we would like to express our gratitude for these. We hope to continue to receive comments and suggestions for topics that can enhance the quality and usefulness of the status report. You can contact us at statusrapport@menneskeret.dk.

We hope that 'Status 2015–16' will provide a clear overview and thereby strengthen human rights in Denmark.



Jonas Christoffersen
Executive Director

CHAPTER 1

INTRODUCTION TO HUMAN RIGHTS

DENMARK'S HUMAN RIGHTS OBLIGATIONS

Denmark has a large number of human rights commitments. At national level, the Danish Constitution provides for protection of many key human rights. Internationally, Denmark has entered into a number of agreements (conventions/treaties) on the protection of human rights. These agreements fall under various institutions, in particular the United Nations, the Council of Europe and the European Union.

TWO TYPES OF RIGHTS

Human rights law distinguishes between civil and political rights on the one hand and economic, social and cultural rights on the other. The rights are interrelated, but there are significant differences in how they are implemented. Regardless of the type of right in question, discrimination must never occur. Freedom of expression, freedom of assembly and the right to a fair trial are examples of civil and political rights. Examples of economic, social and cultural rights are the right to health and the right to an adequate standard of living.

INTERPRETATION OF HUMAN RIGHTS

International human rights are based on principles stating that any intervention in these rights by the state must be legitimate and proportionate.

The requirement that intervention is legitimate (the principle of legality) entails that any interference in the protected rights must be based in national law and be made public, as the country's citizens must know where they stand in terms of the law.

The proportionality assessment includes, on the one hand, consideration for the protection of individual rights and, on the other, consideration of opposing public interests. Striking the right balance requires a legal assessment of the significance of the opposing interests at stake: the importance of the right in question, the severity of the intervention in the individual's rights, the significance of the objective/opposing interests being pursued, and the importance of the intervention for safeguarding the objective/the opposing interest.

The prohibition of discrimination means that a person or group of persons may not be treated less favourably than others without proper justification.

MONITORING HUMAN RIGHTS

When a convention or treaty has been adopted by an international organisation such as the United Nations, the organisation's member states must decide whether they wish to be bound by the agreement. This occurs when they ratify the agreement. With ratification, the member state is obliged to comply with the contents of the agreement in its national law and practice.

Within the United Nations framework, member states are monitored with respect to the human rights obligations that they have undertaken. This is primarily carried out by the committees associated with the various conventions, through the UN Universal Periodic Review (UPR) and through the UN's special procedures.

Several monitoring bodies have been established under the Council of Europe, such as the European Court of Human Rights (ECtHR), which allows each individual the possibility of enforcing their rights.

In the European Union, human rights are most often termed 'fundamental rights'. The European Court of Justice and the European Union's Agency for Fundamental Rights monitor whether these rights are being respected.

Denmark protects, monitors and enforces human rights on several levels. Any citizen can demand that the public authorities comply with the international agreements that Denmark has ratified. Moreover, a case can be brought before the Danish courts if one or more provisions of the agreements have been violated. The rights can be invoked by the parties and applied by Danish courts. This also applies to violations of human rights enshrined in the Constitution and other national legislation.

The Danish Institute for Human Rights has been tasked with contributing to the protection and promotion of human rights. This is carried out in collaboration with the international control mechanisms as well as other national monitoring bodies, such as the Parliamentary Ombudsman.

Read the full text in Danish at menneskeret.dk/status.

CHAPTER 2

IMPLEMENTATION OF HUMAN RIGHTS

On 21 January 2016, Denmark was examined by the UN Human Rights Council under the Universal Periodic Review (UPR) mechanism. The UPR is an assessment mechanism whereby all UN member states report about, and are examined on, their overall human rights record.

As a prelude to Denmark's UPR, the Danish Institute for Human Rights and the Ministry of Foreign Affairs conducted four rounds of public consultations in February 2015. This allowed all citizens an opportunity to make known their views on the state of human rights in Denmark.


In March 2015, the Government of Greenland, the Greenland Council for Human Rights and the Danish Institute for Human Rights held a similar public consultation in Nuuk, and in May 2015 the Government of the Faeroe Islands held one in the Faeroe Islands. The Faeroe Islands UPR report states that the Islands will examine the possibility of setting up their own national human rights institution.

HUMAN RIGHTS IMPROVEMENTS

- On 7 October 2015, Denmark acceded to the Optional Protocol to the Convention on the Rights of the Child (CRC-OP-IC), thereby allowing the acceptance of individual complaints procedures.
- On 1 January 2016, the Act on the Digitisation of the Legal Process etc. entered into force. This Act means that a free of charge and publicly accessible courts database can now be established. In its initial version, the courts database will include the majority of judgements handed down in civil cases as well as selected criminal cases.

NEW CHALLENGES

- Bills are still being sent for public consultation with consultation periods that are too short and without adequate review of human rights aspects. One important Bill of November 2015, concerning the management of the refugee and migrant situation, was rushed through without any public consultation.



DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015 AND AT THE BEGINNING OF 2016

- In March 2015, the UN's Committee on the Elimination of Discrimination against Women (CEDAW) issued Denmark with a number of recommendations covering a broad range of areas, including equal opportunities, violence against women, human trafficking, education, working conditions etc. The Committee recommended that Denmark incorporate the UN Convention on the Elimination of All Forms of Discrimination against Women into Danish law.
- In May 2015, the UN's Committee on the Elimination of Racial Discrimination (CERD) made a number of recommendations to Denmark, particularly in regard to foreign nationals and the right to asylum. The Committee recommended that Denmark incorporate the UN Convention on the Elimination of All Forms of Racial Discrimination into Danish law.
- In December 2015, the UN's Committee against Torture (CAT) issued a number of recommendations concerning detention and asylum. The Committee also recommended that Denmark make torture a criminal offence in its own right and that Denmark incorporate the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into Danish law.
- The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA), which monitors implementation by Member States of the Council of Europe Convention on Action against Trafficking in Human Beings, visited Denmark in May 2015. The recommendations made by the Group of Experts to Denmark have not yet been published.
- In January 2016, as stated above, Denmark was examined as part of the Universal Periodic Review of the UN Human Rights Council. Denmark received 199 recommendations in areas including asylum and immigration, as well as equal treatment. In April 2016, out of a total of 199 recommendations, Denmark had accepted 120 in full and 14 in part.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

International human rights conventions are limited in the manner in which they regulate the practical transfer to the national legal system of the human rights they govern; the only condition is that the protection of human rights must be effective. States therefore have the liberty to decide how they will ensure adequate human rights protection.

Implementation of human rights in Denmark can be strengthened in a number of areas. In the thematic report (in Danish) 'Implementation of Human Rights' we have addressed the following issues:

- Accession to human rights treaties
- Incorporation
- Human rights action plan and systematic monitoring of human rights
- Revision of the Constitution, equality legislation and the Aliens Act.

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- take steps to introduce a ban on discrimination outside the labour market on grounds of disability, religion, sexual orientation and age.
- in cooperation with the Faroe Islands, establish a national human rights institution for the Faroe Islands.
- take steps to incorporate the main UN human rights conventions into Danish law.
- incorporate a mandatory human rights implication assessment in Bills.
- formulate a national human rights action plan, which, among other things, follows up on recommendations from international bodies and which would be anchored at inter-ministerial level.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 3

ASYLUM

At the end of 2014 there were 59.5 million displaced persons across the world, of whom 38.2 million were internally displaced, 19.5 million were refugees and 1.8 million were asylum seekers. Of the 19.5 million refugees, 14.4 million come under the mandate of the United Nations High Commissioner for Refugees (UNHCR), which relates to people who are displaced outside of their own country and in need of international protection as a result of persecution and conflict. By mid-2015, the figure was estimated at 15.1 million. Of these the largest number (4.2 million) are from Syria. The vast majority of refugees are still in their regions of origin. As of mid-2015, for instance, 1.8 million Syrians were registered in Turkey, 1.2 million in Lebanon and 628,800 in Jordan.

In addition to the large numbers of refugees from Syria, conflicts and political repression in a number of other countries have also contributed to creating a refugee crisis of historic proportions. The rising number of refugees should also be seen in the context of falling levels of international support and the lack of opportunities for refugees to support themselves in countries in their regions of origin.

In 2015, the refugee situation led to a significant increase in the number of refugees travelling to Europe, and there has been a marked increase in the number of asylum seekers in Denmark and the rest of Europe. In 2015, 1.2 million people made first-time applications for asylum in the EU, more than double the number for 2014. 21,225 applied for asylum in Denmark in 2015, compared to 14,792 in 2014. This increase has had a number of consequences, including that asylum seekers have to wait a long time between entry and their first interview with the Immigration Service. In September 2015 a larger number of entrants not seeking asylum caused a number of challenges in Denmark.


The refugee situation has also resulted in greater focus on borders, both the EU's external borders and borders within the EU. Denmark has introduced and extended temporary border controls at the German border. In addition, in March 2016 the EU signed a much-debated agreement with Turkey relating to the return of asylum seekers from Greece and the resettlement in the EU of Syrian asylum seekers in Turkey.

In January 2016, the Danish Parliament adopted yet another amendment as part of the government's new asylum policy of November 2015 in response to the refugee crisis (Asylpakken). Among others, the amendment gave the police mandate to seize money and valuables belonging to asylum seekers for the purposes of covering the costs of their stay. The amendment also changed the criteria for selecting quota refugees, with greater emphasis on the integration potential of the individual in question. Those aspects of the Bill concerning the access to deprive asylum seekers of money and valuables encountered fierce criticism, both nationally and internationally. However, the most serious amendment was to postpone the access to family reunification for three years. See the thematic report on 'Family Life', which deals with the right to family reunification for those granted temporary protection status.

NEW CHALLENGES

- In August 2015 and March 2016, the Danish Parliament adopted Bills introducing a new and lower 'integration benefit' for people who have not resided in Denmark for seven out of the last eight years. The regulations have encountered fierce criticism, as they are liable to harm integration and lead to discrimination between refugees and Danish nationals.
- In September 2015, the Parliamentary Ombudsman investigated a case where advertisements in foreign newspapers were used to publicise information on changes to the residence regulations in Denmark. The Ombudsman criticised these, as the information on the Danish asylum system was not accurate.
- In order to give the authorities greater leeway in managing specific and urgent cases of refugee and migrant flows, in November 2015 Parliament amended the Aliens Act. The amendments introduced the possibility of detaining asylum seekers with a view to their registration and introduced the possibility for the Minister of Immigration, Integration and Housing to suspend the requirement for a judicial review within three days if special circumstances apply. We criticised that the amendments allowed for decisions to be taken that can be contrary to Denmark's international obligations.
- In February 2016, the Minister of Immigration, Integration and Housing announced that asylum seekers under the age of 18 will not be allowed to live with a spouse or cohabitee at asylum centres. A number of organisations, including the Danish Institute for Human Rights, criticised this administrative practice, on the basis that it provided for no specific assessment of individual cases as to whether the separation is in accordance with the right to family life.

- The Parliamentary Ombudsman made an unannounced visit in February 2016, along with DIGNITY and the Danish Institute for Human Rights, to the former prison in Vridsløselille, where foreign nationals due to leave Denmark or foreign nationals whose asylum case is pending may be detained in order to ensure their continuing presence. The Ombudsman expressed serious concern about the conditions, including the lack of information, communication and human contact. He further recommended the introduction of screening for torture and the risk of suicide.



DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015 AND AT THE BEGINNING OF 2016

- In 2015, Denmark was criticised by international bodies on a number of occasions in connection with specific cases directed against Denmark. Compared to previous years, there has been a significant increase in the number of appeals brought before the UN treaty bodies involving decisions by the Danish Refugee Appeals Board. In the period from 2004 up to and including the first half of 2015, the UN treaty bodies issued decisions in 15 cases, and the Board was criticised in four of these. According to the Ministry of Immigration, Integration and Housing, in the second half of 2015, the UN treaty bodies issued decisions in 15 cases and expressed criticism in eight of these.
- Based on the review of Denmark conducted by the UN Committee against Torture in November 2015, the Committee issued a number of recommendations to Denmark. These related to systematic screening and the medical examination of individuals believed to have been subject to torture, as well as detention of asylum seekers and torture victims, including the conditions during detention.
- In addition, Denmark was examined in January 2016 by the UN Human Rights Council as part of the Universal Periodic Review (UPR). The review resulted in a number of recommendations regarding the treatment of foreign nationals, including on issues such as the need to consider the best interests of the child in asylum cases, detention of children, the right to family reunification and the confiscation of refugees' valuables.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of protecting and promoting the rights of asylum seekers and persons granted residence permits on the basis of asylum. In the thematic report (in Danish) on 'Asylum', we have addressed the following issues:

- The transfer of asylum seekers to another EU Member State under the Dublin Regulation
- Unaccompanied minor asylum seekers
- Detention, including the detention of vulnerable asylum seekers
- Suspension of compulsory deportation

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the Ministry of Justice:

- ensure that any detention of asylum seekers etc., including minors and other particularly vulnerable persons, take place under appropriate conditions, and that detention only be used if appropriate facilities and conditions are available.
- ensure that, prior to or close to the time of detention, a mandatory and more extensive medical examination be conducted of all asylum seekers the police intend to detain. The examination should involve doctors and psychiatrists etc., and the asylum seeker should have access to a qualified interpreter. The results of the examination should be included in the assessment of whether the person in question may be detained and under what conditions.

We also recommend that the government:

- examine the consequences of granting a temporary residence permit for the development and general condition of unaccompanied minors, given that the permit is in principle withdrawn once they reach the age of 18, and on that basis consider whether the regulations governing the duration of the residence permit for unaccompanied minors should be changed.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 4

CHILDREN

A number of aspects of the legislative framework on prevention of abuse against children (Overgrebspakken), which came into effect in 2013, were evaluated in 2015. The legislative framework contains clear regulations requiring that the municipalities involve the child early on, so as to quickly identify and put an end to the abuse. The National Social Appeals Board concludes that municipalities, daycare centres, the police and health services are satisfied with the initiatives, which provide better protection and management of child abuse. Nevertheless, there is a large proportion of cases where errors have been found in the way in which cases were managed.

Denmark has a special scheme to promote and monitor children's rights, which involves three public bodies: Danish Children's Welfare (Børns Vilkår), the National Council for Children and the Ombudsman's Children's Office (Ombudsmandens Børnekontor). The scheme, which came into effect in 2012, has been criticised by various children's organisations as being too complex for children to cope with. The Ministry of Social Affairs reviewed the scheme in 2015, together with the three parties to the scheme and other stakeholders. The Ministry concluded that the scheme had been implemented as anticipated, but the parties will endeavour to achieve greater transparency

and greater consistency in practice in terms of the referral process. Additional funds were also granted to the Ombudsman's Children's Office and Danish Children's Welfare, one of the main purposes being to extend the opening hours of the Children's Hotline (Børnetelefonen).

Under the terms of the 1 October 2015 amendment to the Social Service Act, the Child and Youth Committee in each municipality must decide on changes to the placement facility for children and young people placed in care outside their home in cases where the person with custody and/or the young person in question does not give their consent. Equally, the age threshold for when a young person is to give their consent has been lowered from 15 to 12 years old.

The committee looking into the use of force at placement facilities for children and young people (**Magtanvendelsesudvalget**) presented its report in March 2015. In November 2015, the government and a number of the political parties in Parliament agreed to follow the recommendation of the committee to adopt new regulations on the use of force in respect of children and young people placed in care. The Ministry of Social Affairs and the Interior has prepared a Bill on adult responsibility for children and young people placed in care, and

this has been put out for public consultation. The Bill is expected to be adopted during the 2015–16 parliamentary session, so that it enters into force on 1 January 2017.

The new Mental Health Act from 2015 states that where a person or persons with custody of a child provide(s) their informed consent to the psychiatric treatment of a child under the age of 15, such treatment is not considered as coercive and is not subject to the special procedures and legal safeguards required for coercive treatment. However, during the Parliamentary negotiations of the Bill, the Parliamentary Health Committee was unanimously of the opinion that the Bill should emphasise that physical restraint ought never to be used on minors. Any intervention must be recorded, and the senior consultant at the hospital department has a duty to report interventions performed on children under the age of 15 to Statens Serum Institut (SSI) under the Danish Ministry of Health. The intervention must be reported even if it was with the consent of the parents. Furthermore, minors and their parents must be offered a follow-up consultation once the treatment has ended. The regulations will be evaluated in three years' time.

In 2016, the Ombudsman's Children's Office will visit many of the children and young people admitted to psychiatric wards in order to gain an impression of how the new Mental Health Act of 2015 is working. This will focus on the issue of preventing and minimising the use of physical restraint as well as how the children and young people in these wards are involved and have a voice in making the decisions.

HUMAN RIGHTS IMPROVEMENTS

- After a protracted process, the Mental Health Act has been amended. Under the terms of the Act, admittance and treatment at a psychiatric ward must be on the basis of informed consent in accordance with the provisions of the Health Act, unless otherwise laid down by the Mental Health Act. This means that 15–17 year-olds who do not consent to the treatment come under the scope of the Mental Health Act and therefore have the legal safeguards provided under this Act. This group of patients will no longer be subject to a maturity assessment, and parental consent to treatment will therefore no longer be needed.
- On 7 October 2015, Denmark acceded to the Optional Protocol to the UN Convention on the Rights of the Child (CRC-OP-IC), which gives individuals a right of appeal if they believe their rights under the UN Convention on the Rights of the Child have been infringed. The protocol does not, however, apply to the Faroe Islands or Greenland, as was recommended by the UN's Human Rights Council in connection with the UPR.
- An annual budget of DKK 129 million has been earmarked under the Finance Act for the period 2015–2017 to reinforce preventive work with vulnerable children and young people under the heading 'Action – Lifelong Effect' (**Indsats – Livslang Effekt**).

- In the 2015 Finance Act, an annual total of almost DKK 70 million has been earmarked up to and including 2019 for children and young people under 25 from families where there has been alcohol and substance abuse, with free counselling and conversation therapy provided on a nationwide basis. This pool is expected to be extended after that period.
- The Social Service Act has been amended to deliver stronger action on countering anti-social behaviour. The idea is to establish networking consultations (**netværkssamråd**).
- Another amendment to the Social Service Act has been to transfer responsibility from the local administrations to the Child and Youth Committee with regard to deciding issues relating to a change in where children are placed in care. The age threshold for a child's consent has been lowered to 12 years.
- The legal position of minors has been strengthened by an amendment to the Mental Health Act. The Ombudsman's Children's Office is following developments, and the Act will be evaluated in three years' time.
- Provisional figures from the Prison and Probation Service point to a reduction in the use of punishment cells for 15–17 year olds. In the first three quarters of 2014, punishment cells were used on 18 occasions for adolescents between the ages of 15 and 17, whereas in the first half of 2015 this happened on three occasions.

- Over the period 2005–2014, the number of criminal offences committed by young people aged between 15 and 17 fell by 45%.

CHALLENGES

- There are instances of municipalities unlawfully taking decisions in social cases in order to save money. In recent years, the Parliamentary Ombudsman has investigated several such cases.
- There has been a high error rate in the municipalities' handling of cases involving child abuse. The National Social Appeals Board has reviewed approximately 100 cases, of which almost half failed to meet important requirements laid down by law.
- More children with serious problems are placed in care with foster families. These foster families therefore need better training.
- Cases where children are detained still need focus. This applies irrespective of whether or not such detention occurs within the criminal justice system.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015 AND AT THE BEGINNING OF 2016

- In 2015 Denmark was examined by several UN treaty bodies, including the Committee against Torture. The Committee recommended that Denmark prohibit solitary confinement of minors and the use of solitary confinement (punishment cells) as a disciplinary punishment.
- When Denmark was examined by the UN Human Rights Council in January 2016 as part of the Universal Periodic Review (UPR), it was recommended to introduce alternatives to remand detention of minors, to avoid having children serve sentences in adult prisons and to prohibit the solitary confinement of children. Another recommendation was to extend the mandate and resources of the Ombudsman's Children's Office to also include the provision of advice and legal aid in more cases.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in the area of children's rights. In the thematic report (in Danish) on 'Children', we have addressed the following issues:

- Protection of children from abuse
- Children as secondary victims
- The situation of children and young people when placed in care outside their home
- Detention of children in criminal justice
- Detention outside the criminal justice system and other uses of force against children

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the municipalities:

- ensure that their response to abuse covers psychological abuse and neglect to the same extent as physical and sexual abuse.
- ensure that all foster families receive training and supervision and that foster families receive the necessary support in the form of courses and frequent visits from the authorities.

We also recommend that the government:

- take steps to make it a legal requirement that staff in the health sector provide information and the relevant support to children who are close relatives of seriously ill patients or people with addiction who are in contact with the health-care system.
- take steps to introduce a ban on solitary confinement of children within the criminal justice system.
- take steps to amend the relevant legislation so that regional social oversight authorities (socialtilsynet) are under an obligation to confirm the receipt of reports on use of force in relation to the relevant children and young people and their parents, as well as the place where they are placed in care. The regional social oversight authorities (socialtilsynet) should state whether, in their opinion, the degree of force used was permissible or not.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 5

DATA PROTECTION

The rights to privacy and data protection have loomed large in public debate in recent years, both abroad and in Denmark. This is in no small part due to the revelations made by the American, Edward Snowden, concerning the massive extent to which the intelligence services collect and exchange data.

At UN level, this has brought about UN resolutions on the right to privacy in the digital age. In 2014, the United Nations High Commissioner for Human Rights initiated a panel discussion on surveillance-related legislation and monitoring across the UN member states, which resulted in a number of recommendations.

Data protection has also been very much on the agenda in the EU. In October 2015, the European Court of Justice declared the US Safe Harbour arrangement to be invalid, on the grounds that the level of data protection in the US was inadequate. In February 2016, the European Commission and the US agreed a new framework for transatlantic data flows: the EU-US Privacy Shield. In December 2015, the European Parliament and Council agreed on a draft new Data Protection Regulation, which, in conjunction with a directive on the processing of personal data in the field of

criminal justice, constituted the EU's new data protection framework. The Regulation lays down requirements that data protection should be designed into the IT architecture ("privacy by design") and focuses to a greater extent than previously on IT security at both public and private institutions and businesses. The framework was adopted in April 2016.

HUMAN RIGHTS IMPROVEMENTS

- For years, data on the diagnosis of certain illnesses was automatically transferred by doctors in general practice to the Danish General Practice Database (DAMD). Submission of data was originally limited to diabetes and later also COPD, heart failure and depression. It therefore only concerned a "specific" patient group, as provided for by the Health Act. However, at some point, automatic reporting of all diagnoses began. This meant that the reporting was contrary to the terms of the Health Act. The issue was whether the unlawfully collected data should still be transferred to the Danish State Archives – an issue that resulted in heated debate. In May 2015, the idea was finally rejected and the database deleted.

- In July 2015, the UN Human Rights Council appointed the first Special Rapporteur on the right to privacy.
- In December 2015, the European Parliament and Council agreed a compromise draft for the new Database Protection Regulation, which strengthens the rights of citizens in a number of areas and places more stringent demands on IT security.

NEW CHALLENGES

- In 2015 it was revealed that the Danish Security and Intelligence Service (PET) had unlawfully been collecting data on airline passengers (Passenger Name Record) for several years via the Central Customs and Tax Administration (SKAT). The legal basis for doing this was introduced in 2015. However, the problem is that the Security and Intelligence Service obtains the information via SKAT, which collects it outside its own area of authority, therefore collecting information that it does not itself need.
- In 2015, the Danish Defence Intelligence Service (FE) became entitled to monitor Danish citizens abroad if there are definite grounds to presume that the relevant person is taking part in activities that might result in, or exacerbate, a terrorist threat to Denmark. Until then, the Defence Intelligence Service were not allowed to process information on Danish citizens, but it can do so now – with more lenient requirements than in the rest of the criminal justice system and without adequate supervision.
- Further to the European Court of Justice's ruling against the EU's Data Retention Directive, the Ministry of Justice questioned whether the Danish regulations on internet session logging were appropriate to achieve their purpose, and in June 2014 decided to repeal the regulation. During 2015–16 the government had been working on reintroducing session logging without any prior evaluation of the relevant regulations. However, in March 2016, the government announced that session logging would be too expensive to introduce to the extent it envisaged. The National Police and Ministry of Justice are therefore working on an alternative.
- In October 2015, the government decided to recall the committee of independent experts which was to carry out a review of Danish anti-terrorism legislation.
- In June 2014, Parliament's Legal and Cultural Committee established a parliamentary working group to explore options for better data security. In January 2015, the working group submitted its final report, with a number of recommendations for how the public authorities process personal data, as well as on the supervision of data protection at public authorities and private businesses. The recommendations of the working group have still not been followed up.

- We have previously pointed out some of the human rights problems associated with making the Centre for Cyber Security subject to the authority of the Defence Intelligence Service. With the adoption of the Act on Internet and IT Security, the Centre for Cyber Security acquired a number of supervisory powers over internet and service providers, including the right to undertake inspections without the need for a court order. This again raises the question of whether the Centre may justifiably be exempt from requirements of administrative procedural law to which other supervisory authorities are subject.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of its citizens' right to protection of their data and communication. In the thematic report (in Danish) on 'Data Protection', we have addressed the following issues:

- Data retention
- Social media
- Data protection in public administration
- Cloud computing
- Intelligence services and cyber security

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- take steps to commission an independent evaluation and analysis as to whether the Danish regulations on data retention are in line with article 8 of the European Convention on Human Rights and articles 7 and 8 of the Charter of Fundamental Rights of the European Union, which deal with data protection and respect for private life. The evaluation should involve and evaluate alternatives and more narrowly defined models.
- take steps to set in motion an overall review of Danish anti-terrorism legislation.
- carry out an analysis and systematic assessment of the overall supervision of the intelligence services, including the Centre for Cyber Security.

We also recommend that the Data Protection Agency:

- examine how Danish supervision of the storage and exchange of personal information by social media can be rendered more effective.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 6

ETHNIC ORIGIN

Protection against discrimination on grounds of race or ethnic origin is guaranteed by Danish law, both within and outside the labour market. In practice, however, many people suffer discrimination because of their ethnic origin. Generalisations, prejudices and negative stereotypes increase the risk of not only discrimination against individuals but also polarisation and stigmatisation of entire ethnic groups.

HUMAN RIGHTS IMPROVEMENTS

- After the Institute's survey on equal access to health, and following continued emphasis on this area, a ban on children acting as interpreters in the health-care system came into effect on 1 May 2015.
- The Danish Society for Migrant Health (SIS) was founded in 2015. The purpose of the Society is to promote health among refugees, migrants and asylum seekers and develop initiatives on the part of the health-care system to reduce growing inequalities in health. The initiative for the Society came from a group made up of the Danish Research Centre for Migration, Ethnicity and Health (MESU) at the University of Copenhagen, the

clinics specialising in treatment of migrants at Odense and Hvidovre hospitals, the Danish Red Cross and the Department of Paediatrics at Copenhagen University Hospital.

- Overall responsibility for combating hate crime, including issuing annual statistics of the number of hate crimes, has been transferred from the Security and Intelligence Service to the National Police. The National Police has set up a monitoring scheme for hate crimes designed to provide an overview of the problem, information as to its extent and developments, and to ensure cases are handled properly. There has never before been a monitoring scheme of this kind, although there has long been a need for better recording and reporting of the number of hate crimes. In 2015, the Security and Intelligence Service abandoned preparation of its report on hate crimes, as it believed that the figures would be misleading due to incomplete data.

NEW CHALLENGES

- In August 2015 and March 2016, Parliament adopted new regulations on integration benefits for those who have not resided in

Denmark for seven out of the last eight years. The regulations have encountered criticism, on the basis that they may be detrimental to integration and treat refugees differently from Danish nationals.

- The government has introduced a Bill to introduce a cap on the benefit available to recipients of the integration benefit, educational grants or social security, plus more stringent requirements on the duty of recipients of integration benefits, educational grants or social security to be available for work (the “225 hour regulation”). This regulation is believed to have a particularly severe impact on those who were not born in Denmark.
- In 2015, a survey of discrimination on the private housing market was published. It concluded that discrimination against immigrants is prevalent on the private rental market, with particular impact on immigrant males.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of implementing the principle of equal treatment and non-discrimination regardless of race or ethnic origin. In the thematic report (in Danish) on ‘Ethnic Origin’, we have addressed the following issues:

- Labour market
- Access to health
- Equal treatment of Greenlanders in Denmark
- Hate crimes
- Access to language interpretation

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that:

- the government devise a national action plan to combat hate crime.
- the Ministry of Higher Education and Science encourage the establishment of an education programme for interpreters aimed specifically at the most important refugee and migrant languages. The objective of the programme is to ensure good language skills, knowledge about relevant specialist terminology and interpretation competences, including interpretation techniques and ethical regulations for interpreters.
- the Ministry of Immigration, Integration and Housing establish a certification scheme so that interpreters can be certified on completion of the education programme, or on the basis of an interpretation and language test.
- the Ministry of Social Affairs and the Interior support improvements in the organisation and representation of Greenlanders in Denmark.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 7

FAMILY LIFE

The right to family life is a fundamental right with significant importance, particularly in the area of immigration and asylum law and family reunification. Changes to legislation, case law etc. often contain a reference to the right to family life, sometimes in conjunction with other rights or protected groups of persons.

The regulations on family reunification were amended in 2015 with a view to making it less attractive for foreign nationals to move to Denmark. The emphasis on the asylum process has also meant that the expected maximum case processing time for cases relating to family reunification has been extended.

HUMAN RIGHTS IMPROVEMENTS

- On 22 December 2015, the Eastern High Court handed down a judgement on family reunification and discrimination against persons with disabilities. The case related to a Danish national residing in Denmark who, as the result of brain damage, had been receiving social security for the last three years. Citing the UN Convention on the Rights of Persons with Disabilities, the

Eastern High Court ruled that his spouse, also resident in Denmark, did not have to meet the self-support requirement of the Aliens Act, as such a requirement, combined with his disability, would prevent him enjoying his right to family life on an equal footing with others. The Immigration Appeals Board has appealed the judgement to the Supreme Court.

NEW CHALLENGES

- In April 2015, the Danish Parliament passed the government's proposal to make it easier to be put children up for adoption against the will of their parents. Children in care outside their home may be put up for adoption against the will of their biological parents (even though the parents and child have well-functioning visitation) if the parents are considered permanently unable to ensure the care of the child and if considerations of continuity and stability in the child's upbringing indicate that adoption is in the best interests of the child. This change has weakened the onus of proof on the authorities to show that the parents are permanently

unable to ensure the child is cared for. The most recent changes mainly affect parents with disabilities and children of parents with disabilities. The due legal process issues associated with a reduced burden of proof compared with the intensity of the intervention, set against considerations of continuity and stability in upbringing, risk disproportionate interference in the child's and parents' right to family life.

- In January 2016, the Danish Parliament adopted yet another amendment as part of the government's new asylum policy of November 2015 in response to the refugee crisis (Asylpakken). The amendment means that the right to family reunification for people with temporary protection status has now been postponed, in principle, from one to three years. In addition, fees for applications for family reunification have been reintroduced. The amendment postponing the right to family reunification encountered particularly severe criticism, both nationally and internationally.
- In February 2016, the Minister of Immigration, Integration and Housing announced that asylum seekers under the age of 18 will not be allowed to live with a spouse or cohabitee at asylum centres. A number of organisations, including the Danish Institute for Human Rights, have criticised this administrative practice, on the basis that it provided for no specific assessment of individual cases as to whether separation is in accordance with the right to family life.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015

- In January 2016, Denmark was examined by the UN Human Rights Council as part of the Universal Periodic Review (UPR). Denmark received 199 recommendations, including on the postponement of family reunification for three years for persons with temporary protection status.
- In May 2016, the Grand Chamber of the European Court of Human Rights (ECtHR) ruled on the so-called 28 years rule (now 26 years rule). The rule states that persons who have been Danish citizens for 28 years (now 26 years) are exempted from the so-called attachment requirement (tilknytningskravet). The attachment requirement means that a couple's combined connection to Denmark must be greater than their combined connection to another country. The majority of the judges in the Grand Chamber of ECtHR held that the rule was discriminatory.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of protection of the right to family life. In the thematic report (in Danish) on 'Right to Family Life', we have addressed the following issues:

- Family reunification
- The right to be parents

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- take steps to repeal the provisions of the Aliens Act requiring that those obtaining asylum on the basis of temporary protection status cannot in principle achieve family reunification within the first three years.
- take steps to amend the conditions of the Adoption Act governing adoption against the will of the parents. Adoption of this type should only occur provided there are overriding considerations pertaining to the child for so doing. It should not be undertaken however where the biological parents and child enjoy well-functioning visitation, as this is the only possibility open to the child and the parents of engaging in family life.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 8

INVESTIGATORY POWERS OF PUBLIC AUTHORITIES

Although the Danish Constitution lays down that access to private property on the part of the authorities in principle requires a court order, over the years the authorities have acquired an increasing number of legal options to gain access to private property without judicial control. In 2014, 264 legal provisions authorised access to private property without a court order, in 2015 the number was 266, and, in February 2016, 271 provisions authorised such access.

The Ministry of Justice produces an annual report on the administration's use of coercive measures. The reports from 2015 and 2016, respectively, show that in 2013 a total of 1,130 inspection visits were carried out under the auspices of the Ministry of Taxation, while the figure for 2014 was 1,567. Checks by Central Customs and Tax Administration (SKAT) on building works on private land are not included in either report, although a total of 823 such checks were carried out in the period from 1 July 2012 to August 2015. SKAT does not have a complete list of the number of checks it has performed in connection with prosecutions for breaches of tax law. SKAT did not start recording these until 2015. Of 76 checks in

2015, only four resulted in orders, and none resulted in any tax adjustment or settlement.

The Danish Institute for Human Rights therefore welcomed the fact that in October 2015 the new government presented a Bill repealing the access of SKAT to check building works on private land.

In September 2014, the Auditor General's Office took steps to investigate collaboration between medium-sized municipalities and Udbetaling Danmark (the Danish authority for payments of benefits etc.). The Auditor General's Office published its report in May 2015. The Auditor General's Office assesses that the municipalities and Udbetaling Danmark generally enjoy secure and effective collaboration on the provision of guidance and assistance to citizens, although it is still unknown whether citizens themselves are satisfied.

On the other hand, the Auditor General's Office deemed it unsatisfactory that effective collaboration was still not in place in regard to checks on social security benefits paid. Members of the Public Accounts Committee

reached the same conclusion in their report, but (as pointed out by the Minister of Employment) there is an expectation of more extensive exchange of information between the municipalities and Udbetaling Danmark and increased access to cross-checking in order to improve the situation. The report of the Auditor General's Office also shows that in 2013 and 2014 Udbetaling Danmark initiated a total of 1,009 enforcement cases in relation to their own areas of responsibility. In 20 percent of the cases (202 cases) an enforcement case was opened, whereas in just 6 percent of the cases (61 cases) the evidence pointed to there having been an error in payment, and in 14 percent of the overall total of cases (141 cases) no error in payment could be shown to have taken place.

HUMAN RIGHTS IMPROVEMENTS

- After criticism from various quarters, including the Danish Institute for Human Rights, of SKAT's means of checking commercial construction activities on private land, in October 2015 the government presented a Bill to repeal the relevant powers. The Act was passed in December 2015. The Institute's recommendations of last year were fully addressed.

NEW CHALLENGES

- The number of legal provisions authorising administrative authorities' inspection visits without a court order on the basis of so-called statutory powers increased from 264 in 2014 to 271 in February 2016.
- In April 2015, the Danish Parliament passed an act amending the Act on Udbetaling Danmark. The Act transferred authority responsibility for further areas, including flexi-job benefits (flexydelser) and partial retirement pensions, from the municipalities to Udbetaling Danmark, so that Udbetaling Danmark's powers and access to cross-checking have now been extended still further.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges associated with checks carried out by the administrative authorities in terms of human rights protection of privacy and personal data. In the thematic report (in Danish) on 'Investigatory Powers of Public Authorities', we have addressed the following issue:

- Control of social benefits

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- take steps to regulate by law the measures of municipalities in having citizens, who receive social security benefits, under observation in the public space. Such measures are currently only limited by the principle of proportionality enshrined in administrative law.
- take steps to amend the Act on Udbetaling Danmark so that regulations are laid down on informing citizens when they figure on a list of questionable/suspicious cases (undringsliste), as well as special regulations for the correction and possible deletion of information on the list. This will give citizens the chance to prevent the initiation of a formal enforcement case.

We also recommend that the Agency for Labour Market and Recruitment:

- extend its registration of airport checks so that the oversight in future not only contains the number of cases opened, but also the total number of persons who have been checked, the number of cases resulting in restitution of benefits and other cases involving sanctions, so that effectiveness of the enforcement actions can be assessed.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 9

DEPRIVATION OF LIBERTY

Deprivation of liberty is one of the most intensive interventions a human being may be exposed to. It is therefore a fundamental principle of human rights that deprivation of liberty should only be used as a last resort. In 2014 and 2015 there was a marked decrease in the number of inmates in Danish prisons and remand prisons. This should however be seen in relation to a major increase in the number of inmates earlier in the 2000s. The increase in the prison population resulted in a number of major challenges for the institutions of the Prison and Probation Service in the form of extremely high occupancy rates or indeed overcrowding. In recent years, there has been a positive trend towards greater use of alternatives to imprisonment, in the form of community service and electronic tagging.

One of the features of the Danish prison system is a significant number of open prisons that allow regimes that are less restrictive than the more high-security prisons. In addition, the Prison and Probation Service aims to establish a good level of communication and culture between inmates and staff. At the same time, Danish practices of remand custody are characterised by a very restrictive regime that often limits inmates' opportunities

and freedom more than when serving their sentence in a closed prison. The practice of solitary confinement in prisons is one of the severest interventions a democratic nation can take against its citizens in peacetime. Solitary confinement is a kind of prison within a prison. The use of certain forms of solitary confinement remains widespread and is routinely used in the Prison and Probation Service's institutions.

Detention of asylum seekers and their conditions under detention have also been on the agenda in 2015 and the early part of 2016. In November 2015, Danish Parliament passed an amendment to the Aliens Act allowing the detention of asylum seekers for the purposes of their registration, and introducing the possibility for the Minister of Immigration, Integration and Housing to suspend, if special circumstances apply, the requirement that a judicial review take place within three days. The amendment allows for an extended use of detention of rejected asylum seekers and foreign nationals without legal residence in Denmark. The Danish Institute for Human Rights raised concern that the amendments allowed for decisions to be taken that can be contrary to Denmark's international obligations.

HUMAN RIGHTS IMPROVEMENTS

- Over the course of recent years there has been a marked fall in the prison population and therefore occupancy rates at Prison and Probation Service institutions. This is a particularly positive trend, which has continued in 2015.
- There has also been a marked drop in the numbers in remand detention in Prison and Probation Service institutions from 2014 to 2015.
- The use of solitary confinement during remand custody pursuant to the Administration of Justice Act is still at a historically low level.
- The rights of prisoners' children were further reinforced in 2015 with the introduction of transport subsidies for visits and a parent programme for inmates with children.

CHALLENGES

- Remand detainees still represent a disproportionately large proportion of the total number of inmates in the Prison and Probation Service institutions. Extensive checks on correspondence and during visits are particularly intrusive for many remand detainees and their families.
- The use of solitary confinement as disciplinary punishment of inmates still remains at a very high level and has increased significantly since 2000.
- Many inmates still end up in voluntary solitary confinement (voluntary exclusion from other prisoners) in Danish prisons and detention centres.
- A significant number of inmates experience violence or threats from their fellow prisoners, and female detainees are at risk of sexual harassment from fellow inmates.
- A significant number of prison officers report being subjected to violence or threats from inmates.
- A very large number of inmates in the Prison and Probation Service institutions have mental health problems, and a significant number are mentally ill.

- The Parliamentary Ombudsman has criticised the conditions of detained asylum seekers etc. Based on an unannounced visit to Vridsløselille, in February 2016 the Ombudsman expressed general concern at the conditions in which detained foreign nationals were held there, including lack of information, communication and human contact. The Ombudsman recommended that screening for torture and the risk of suicide be introduced. The detention of asylum seekers is dealt with in more detail in the thematic report 'Asylum'.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015 AND AT THE BEGINNING OF 2016

- In November 2015, Denmark was examined by the UN Committee against Torture (CAT). The Committee made a number of recommendations, including in relation to the use of solitary confinement in Danish prisons and detention centres, as well as the detention of children and women.
- In addition, the UN Committee against Torture criticised the conditions of detained asylum seekers and issued a number of recommendations on the systematic screening and medical examination of individuals believed to have been subject to torture, as well as the detention of asylum seekers and torture victims, including the conditions during the detention.

- In January 2016, Denmark was examined by the UN Human Rights Council as part of the Universal Periodic Review (UPR). Denmark received 199 recommendations, several of which proposed that Denmark prohibit solitary confinement of children.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in relation to deprivation of liberty. In the thematic report (in Danish) on 'Deprivation of Liberty', we have addressed the following issues:

- Remand in custody
- Solitary confinement
- Disciplinary punishment of inmates
- Violence and threats in prisons
- Detention of mentally ill inmates
- Women in prison
- Children of inmates

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the Prison and Probation Service:

- minimise the use of all forms of solitary confinement in Danish prisons.
- ensure that inmates in remand custody gain better access to meaningful social contact and meaningful activities.
- undertake a thorough investigation into the extent and nature of violence and threats in the Prison and Probation Service institutions with a view to subsequent preventive measures.

We also recommend that the Ministry of Justice:

- ensure that the detention of asylum seekers etc., including minors and other particularly vulnerable persons, takes place under appropriate conditions. Detention should not take place if the facilities and conditions cannot be considered appropriate.
- ensure that, prior to or close to the time of detention, a mandatory and more extensive medical examination be conducted of all asylum seekers whom the police intend to detain. The examination should involve doctors and psychiatrists etc., and the asylum seeker should have access to a qualified interpreter. The results of the examination

should be included in the assessment of whether the person in question may be detained and under what conditions.

Finally, we recommend that:

- the Director General of Public Prosecutions continue to prioritise significant reductions in the length of remand custody and to keep the latter to a minimum, so that it continues to decrease in frequency.
- the government take steps to reform the provisions of the Criminal Code on leniency and criminal sanctions other than imprisonment for the mentally ill in order to ensure proportionality between the actual offence and the prescribed measure.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 10

DISABILITY

There continue to be major problems that particularly affect persons with disabilities. Between 37 percent and 48 percent of those with major physical or mental disabilities report being discriminated against. Despite this, no general ban on discrimination on the basis of disability has been proposed, nor has there been a proposal to incorporate the UN Convention on the Rights of Persons with Disabilities.

There are still massive problems with coercion in psychiatric treatment, and there is a general lack of respect for the right to self-determination and social inclusion. Last year saw increased focus on due process for vulnerable groups in the municipalities. Organisations representing persons with disabilities expressed a particular concern with regard to specific decisions taken under administrative law. A survey by the National Social Appeals Board in November 2015 shows that the Board reverses municipality decisions in 30 percent of cases, indicating that due legal process within the municipalities is under pressure. It would appear that people with disabilities and seriously ill persons risk health impairments due to the resource assessment

processes (ressourceforløb) and work aptitude tests (arbejdsprøvning) conducted as a result of the early retirement pension reform, also in cases where there exist unequivocal medical advice not to continue with such measures.

HUMAN RIGHTS IMPROVEMENTS

- The Ministry of Social Affairs and the Interior has updated all relevant guidelines under the Social Service Act with a view to clarifying the right to financial support for parents with a disability that prevents them fulfilling their role as a parent.
- The government has earmarked money from the social reserve fund for the use of the National Centre for Social Research (SFI) on their 'Study of Disability and Living Conditions' expected to be completed during the course of 2016. In our view, the study should be framed by a rights-based approach, using amongst other things the Gold Indicators, i.e. ten statistical indicators for measuring implementation of the Convention on the Rights of Persons with Disabilities.

- In April 2016, the Danish Parliament adopted an amendment to the voting legislation, which gives those under guardianship, who do not possess legal capacity, the right to vote in local and regional elections, as well as elections to the European Parliament.
- In September 2015, the Danish Parliament passed an amendment to the Mental Health Act reinforcing the self-determination of the individual and providing for a reduction in the use of coercion in psychiatric treatment. The amendment does not, however, put a stop to the use of physical restraints for periods in excess of 48 hours during psychiatric treatment. This is a practice that has been criticised by the Danish Institute for Human Rights.
- The latest figures from the Danish Health Authority indicate that, nationwide, the use of physical restraint in psychiatric institutions has experienced a small decrease in 2015 compared with the period 2011-2013.

NEW CHALLENGES

- In April 2015, the Danish Parliament passed the government's proposal to make it easier to put children up for adoption against the will of their parents. Children in care outside their home may be put up for adoption against the will of their biological parents (even though the parents and child have well-functioning

visitation) if the parents are considered permanently unable to ensure the care of the child and if considerations of continuity and stability in the child's upbringing indicate that adoption is in the best interests of the child. This change has weakened the onus of proof on the authorities to show that the parents are permanently unable to ensure the child is cared for. The most recent changes mainly affect parents with disabilities and children of parents with disabilities. The due legal process issues associated with a reduced onus of proof compared with the intensity of the intervention, set against considerations of continuity and stability in upbringing, risk disproportionate interference in the child's and parents' right to family life.

- The latest figures from the Danish Health Authority indicate that the number of occasions of prolonged use of physical restraints (i.e. in excess of 48 hours) decreased in 2015 compared with the period 2011-2013. However, the percentage of patients given sedatives coercively has been stable at approximately 7.5 percent during the entire time period.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015

- In December 2015, the UN Committee against Torture expressed concern regarding the use of coercion in psychiatric treatment and recommended that Denmark apply stricter conditions for its use.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of protecting and promoting the rights of persons with disabilities. In the thematic report (in Danish) on 'Disability', we have addressed the following issues:

- Accessibility
- Coercive measures in psychiatric treatment
- Self-determination
- Political participation
- Inclusion in the labour market
- Equal access to healthcare

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government take steps to:

- introduce a ban on discrimination on grounds of disability to apply outside the area of employment.
- change the legislation on voting, so that anyone who has had a guardian appointed under section 6 of the Guardianship Act will still have the right to vote and also be eligible for election in parliamentary elections and referendums.
- reform the Guardianship Act in order to promote assisted decision-making.

We also recommend that the Ministry of Health:

- introduce an expiry date for the prolonged use of physical restraints in psychiatric treatment of over 48 hours, in order to phase out such use.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 11

GENDER

Although in some areas Denmark scores among the best in the world, 2015 saw the country drop out of the top 10 in the Global Gender Gap Index (relating to equality of opportunity between men and women) published annually by the World Economic Forum. From fifth place in 2014, Denmark dropped to 14th in 2015. This was due to greater inequality between men and women in health and a lower position in terms of power and representation, measured on the basis of managers, legislators and high-level civil servants.

In 2015, it was evident that the issue of gender equality figured more frequently in discussion columns featuring politicised subjects such as sexism, night life, the tone and nature of discussion in social media and the action taken to combat violence and rape. Despite such lively debate, 2015 was a year of backward steps when it came to gender equality. The government decided to drop a number of ongoing measures promoting equal pay, maternity leave for the self-employed and increasing the number of female researchers, without replacing these initiatives with new ones.

On the basis of a broad political agreement, in 2015 the government presented a Bill to amend the Act on the Board of Equal Treatment. The Act was passed in December 2015 and entered into force on 1 January 2016. This change in the law is intended to help ensure that only a person who has actually been victim to a breach of the law can have their complaint dealt with by the Board of Equal Treatment. This focuses the work of the Board on cases where discrimination has actually been experienced. In order to ensure that the new requirement to only allow a case to be dealt with if it involves breach of the law that has actually been experienced does not result in cases of principle being overlooked, the Danish Institute for Human Rights will in future be able to bring cases of principle and cases that are in the public interest before the Board.

HUMAN RIGHTS IMPROVEMENTS

- In October 2015, the government, together with the Social Democrats, the Socialist People's Party, the Social Liberal Party and the Conservative Party, decided to re-prioritise the initiatives in the national action plan to combat violence in the family and in close relationships. Re-prioritisation means DKK 6.5 million for projects designed to support and provide advice to women and men who are victims of stalkers. It is an important initiative, as Denmark faces a considerable challenge in protecting women in particular who experience physical violence in the form of the harassment, threats, surveillance etc. that are part of stalking.
- In January 2016, the government presented a new proposal: 'Respect for victims of rape'. The aim of this is to set clear limits as to how the police work with rape victims and ensure a dignified response to rape victims. The proposal contains several initiatives, including the provision of central guidelines for receiving and dealing with rape reports, further police training in interview techniques, strengthening the role of the victim solicitors by introducing special victim solicitor lists, and having the police initiate a campaign during the course of 2016 to encourage victims to report rape.
- In June 2016, the Danish Parliament adopted a Bill intended to ensure more severe sentences for rape and sexual intercourse

with a child under 15 where the adult uses their physical or psychological superiority; as well as for false accusations. The changes enter into force on 1 July 2016.

NEW CHALLENGES

- In 2015, the government decided to revoke the regulations on gender-specific salary statistics. This means that in future only companies with at least 35 employees will be under an obligation to use gender-specific salary statistics. The consequence of this is that around 9,500 businesses will have employees who cannot gain any insight into their salary level in order to identify differences in pay and detect unlawful discrimination.
- In 2015, the government decided to drop the current scheme for maternity leave for the self-employed, which had come into effect on 1 January 2014. In our view, the absence of maternity leave is likely to make self-employment much less attractive, and it may well have a detrimental impact on decisions to have (more) children.
- In 2015, the Minister for Higher Education and Science stopped funding for the so-called YDUN programme, introduced in 2013. The purpose of the programme was to increase the proportion of women researchers and make it easier for women researchers to obtain funding for their research. In terms

of the proportion of female researchers, Denmark is below average, with less than 20% of professors being women, despite being over-represented at PhD level.

IMPORTANT DANISH CASE LAW IN 2015

- In January 2015, the Supreme Court ruled that businesses have a duty to extend training agreements if the trainee becomes pregnant. Up until this judgement of the Supreme Court, case law in this field had been rather uncertain. The principle now is that similar cases will result in a compensation claim of at least six months' salary. The judgement imposes a greater obligation on companies in relation to trainees, requiring that a company has a duty to make it clear to trainees whether a trainee contract is to be extended.
- In a case relating to hairdresser prices in September 2015, the District Court of Kolding judged there to have been unlawful discrimination, as a salon had refused to give a female customer a gentleman's haircut even though the woman in question had chosen not to have her hair washed or have hair products applied.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015

- Denmark was reviewed by the UN Committee on the Elimination of Discrimination against Women (CEDAW) in February 2015. In March 2015, Denmark received several recommendations in a broad spectrum of areas, including equality, violence against women, human trafficking, training and working conditions.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of gender equality. In the thematic report (in Danish) on 'Gender', we have addressed the following issues:

- Enforcing the principle of equal pay
- Gender-segregated education choices
- Gender mainstreaming
- Equal access to goods and services for both sexes
- Parents, children and equality
- Violence in close relationships

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the Ministry for Children, Education and Gender Equality:

- incorporate a gender perspective in order to promote equality in connection with educational choices made by young people, when implementing the recommendations of the working group.
- update and extend the Executive Order on initiatives to promote equality (after coordinating with the other ministries), so that more initiatives within the area of goods and services are permitted.

We also recommend that:

- the Commissioner of Police ensure uniform and effective practice in all police districts, in order to provide victims in cases of violence from close relations with adequate protection and to prevent further escalation of violence, including through the use of personal attack alarms and safety plans.
- the government initiate measures to increase take-up of parental leave by fathers.
- the government initiate the roll back of the reduction of gender-specific pay statistics in the Equal Pay Act, so that businesses with at least 10 (and not, as currently is the case, 35) employees are again subject to the regulations.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 12

USE OF FORCE

In Denmark, the authorities may, under specified conditions, use force and intervene to maintain law and order. These considerations must be set against the protection of individual rights, such as personal freedom, respect for physical integrity and due legal process.

In 2015, the Prison and Probation Service strongly emphasised to prisons and detention centres that pepper spray can only be used if no other means are effective and that staff must be cautious when using pepper spray in confined spaces. According to the Prison and Probation Service, this development is based on the report by the Danish Institute for Human Rights ('The use of pepper spray in Danish prisons') and is the reason for the marked fall in the use of pepper spray in 2015. However, in 2015, restrictions on prison staff carrying pepper spray on their person were relaxed when handling particularly dangerous prisoners or working in closed sections.

The police's use of pepper spray has also declined over recent years. The National Police explain this decline on the basis that troublemakers are more aware of the unpleasant effects of pepper spray and

therefore it is easier to subdue them without the need to actually use the pepper spray.

A study by the think-tank Justitia shows that the number of administrative detentions undertaken by Copenhagen Police has risen significantly in the last 10 years. The National Police cannot explain the increase, but will examine the background.

In January 2016, the Danish Institute for Human Rights highlighted the problematic nature of the police being able to monitor individuals, without special legal provisions to do so, by placing a GPS transmitter on the individual's car, provided the car is in a freely accessible location and the transmitter is placed on the outside of the car.

HUMAN RIGHTS IMPROVEMENTS

- In 2015, the Prison and Probation Service has called on the prisons and detention centres to restrict the use of pepper spray and there has been a decline in the use of pepper spray in Danish prisons and detention centres.

- The number of stop-and-search zones continued to be low in 2015, and the periods for which such zones apply have been shorter. However, despite tighter restrictions from the Ministry of Justice, the geographic extent of the stop-and-search zones is still not administered in accordance with the preliminary works of the Police Act.
- A positive development has been the introduction of the scheme where police wear their ID numbers on their uniforms. The scheme came into effect on 1 February 2016.

NEW CHALLENGES

- In 2015, a number of persons were subjected to searches on the grounds that they were in a stop-and-search zone, although this was not in fact the case. Some of the searches were poorly recorded and logged, so that it is not actually clear where the search occurred. This means it is not possible to determine whether a search took place inside or outside of a stop-and-search zone.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015:

- In November 2015 Denmark was examined by the UN Committee against Torture. The Committee recommended that Denmark restrict the use of pepper spray. It was

recommended to prohibit the use of pepper spray in confined spaces and its use against individuals who have been brought under control, or against anyone who is mentally ill. The UN Committee against Torture expressed its satisfaction that the Ministry of Justice had decided to introduce the wearing of ID numbers on police uniforms as from 1 February 2016.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of use of force by public authorities. In the thematic report (in Danish) on 'Use of Force', we have addressed the following issues:

- Pepper spray
- Stop-and-search zones
- Preventive detention under the Police Act
- Police use of GPS surveillance

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the Ministry of Justice:

- in cooperation with the National Police, devise guidelines setting out in greater detail when it is lawful for the police to use force. This should include restricting as far as possible the use of pepper spray, in particular in confined spaces and against individuals who have been brought under control.
- in cooperation with the Prison and Probation Service, lay down the scope for use of pepper spray in prisons and detention centres, including a prohibition in principle on using it in confined spaces and against inmates that have been brought under control.
- in cooperation with the Prison and Probation Service and similar to the provisions of the Police Act, introduce a hierarchy of lawful force among the permitted means of force, where pepper spray may only be used if less intrusive means are evidently unsuitable.

We also recommend that the government:

- ensure that the provisions of the Police Act on preventive detention are in accordance with article 5 of the European Convention on Human Rights relating to the right to personal freedom.
- take steps to regulate all cases of observation using technical aids, including GPS surveillance in the Administration of Justice Act.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 13

RELIGION

Freedom of religion is one of the classic human rights. It includes the right to have, exercise and change one's religion, have non-religious and atheistic convictions, as well as the right not to have any religion or belief. Freedom of religion is closely linked to other rights, such as freedom of expression and the right to respect for private life. Religious freedom can also come into conflict with other rights and with principles of equal treatment.

In recent years, freedom of religion has been subject to increasing pressure, both globally and in Denmark, including persecution or harassment of religious minorities and religiously motivated extremism and terrorism. This development has resulted in significant human rights challenges, including in Denmark.

The terrorist attack on Charlie Hebdo in Paris on 7 January 2015 had a direct impact on Denmark because of Denmark's role in the cartoon controversy of 2005. The attack was the touchstone for further debate on democratic values and the integration of ethnic minorities in Danish society. The level of threats directed at Muslims and Jews in Denmark also

increased, as well as against individuals seen by others as belonging to a Muslim or Jewish religious community.

On 14 and 15 February, 2015, just over a month after the terrorist attack in Paris, two fatal shootings took place in Copenhagen, one during a public meeting on 'Art, Blasphemy and Freedom of Expression' and the other at the central Jewish synagogue. Since then there has been a particular emphasis on the safety and security of the Jewish minority and their institutions. In January 2015, Parliament adopted an 'Action Plan for the Prevention of Radicalisation and Extremism'. The relevant religious leaders were not involved in the initiatives proposed in the action plan.

The UN Special Rapporteur on freedom of religion or belief made an informal visit to Denmark in November 2015. In this connection, the Danish Institute for Human Rights organised a meeting between the Special Rapporteur and representatives of many organisations, including religious communities, as well as experts, in order to discuss the challenges facing religious freedom in Denmark.

HUMAN RIGHTS IMPROVEMENTS

- Positive steps have been taken in Denmark in terms of regulating the situation of religious communities outside the Evangelical Lutheran Church in Denmark (folkekirken). For several years, a number of bodies, including the National Council of Churches in Denmark, have debated whether there is a need for legislation to implement section 69 of the Constitution on religious communities outside the Evangelical Lutheran Church. In Denmark, such a law (which would also meet the Constitution's requirements for a statute for the religious communities) would result in uniform regulations and rights for religious communities as well as lay down obligations, such as on transparency in the financial matters of the religious communities. As a result of these discussions, in January 2015 the government set up a committee to prepare legislation designed to bring about consistency in the way religious communities outside the Evangelical Lutheran Church are regulated. This is a positive step towards furthering the role of the religious communities in Danish society. According to its terms of reference, the committee is to ensure that draft legislation and recommendations are consistent with the Constitution, the European Convention on Human Rights and Denmark's other international obligations.

- In October 2015, the terms of reference were extended in the light of criticism that the religious communities outside the Evangelical Lutheran Church did not have a voice in the preparatory legislative work of the committee. The religious communities are now to be involved in the work of the committee.
- On 1 January 2016, the Danish Institute for Human Rights received the necessary legal mandate to bring cases based on matters of principle or cases that are in the general public interest before the Board of Equal Treatment. These powers also cover cases relating to religion in employment matters.

NEW CHALLENGES

- Over recent years asylum seekers have been arriving in Denmark in increasing numbers. In 2015 and 2016, the challenge posed by religious freedom of asylum seekers has increasingly come under the spotlight. At some asylum centres, for instance, problems have been identified in asylum seekers' access to pastoral care and appropriate spiritual welfare, as well as opportunities to engage in religious practices. Furthermore, cases of harassment of Christian asylum seekers have been recorded in the centres.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015 AND AT THE BEGINNING OF 2016

- The UN Special Rapporteur on freedom of religion carried out an official country visit in Denmark during the period from 14 March to 22 March 2016. He submitted the provisional results of his investigations on 22 March 2016. One of his recommendations was that the government develop a society where there is room for everyone. He pointed out that a more inclusive understanding of Danish identity has to be created if exclusion based on belonging to a particular religious faith, e.g. Islam, is to be avoided. There also needs to be greater understanding between different social groups, along with a truly inclusive debate on issues that are of importance to religious minorities, such as the circumcision of boys. Finally, the Special Rapporteur highlighted the positive initiatives of the Evangelical Lutheran Church in promoting dialogue between different religions. At the same time, he made it clear that Denmark ought to consider the special position of the Evangelical Lutheran Church in Danish society, which can create an impression of inequality among both non-believers and religious minorities. He emphasised the importance of interpreting religious freedom on the basis of European and international human rights standards as opposed to the Danish Constitution alone. This is germane to a number of issues,

such as whether a religious community can have approval revoked, discussions about restrictions on freedom of expression and indeed the very understanding of the concept of religion.

- In January 2016, Denmark was reviewed by the UN Human Rights Council as part of the Universal Periodic Review (UPR). A number of recommendations made to Denmark relate to religious freedom and not least the protection of religious minorities. A number of states recommend that Denmark redouble its efforts to prevent discrimination on grounds of religious persuasion, including discrimination against religious minorities in particular. A number of states also recommend that Denmark take greater steps to prevent hate crime committed because of the specific religion of the victim. A further recommendation is that Denmark should not ban the cultural practice of circumcision of boys or place any age limit on it.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of freedom of religion. In the thematic report (in Danish) on 'Religion', we have addressed the following issues:

- Religious divorce
- Religious minorities under pressure
- Protection against discrimination on the ground of religion

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- initiate an investigation into asylum seekers' actual access to opportunities to practise their religious belief.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 14

FAIR TRIAL

In 2015, the district courts heard approximately 190,000 new criminal cases and approximately 46,000 new civil cases. Compared to 2014, the number of criminal cases has increased by around 8 percent, while civil cases are at the same level. The case processing times in the district courts are similar to the previous year and stand at around four months for a criminal case at a district court, 16–17 months for an ordinary civil case with main hearing and almost nine months for a civil case under the small claims procedure (claims below DKK 50.000). The case processing times in the high courts are also similar to those of the previous year at around 14–15 months in civil appeals, 25 months in civil cases of first instance and six–seven months in criminal appeals and appeals before a jury.

In January 2016, the Danish Institute for Human Rights issued a report outlining problems with the quality of interpreting in the legal system. The thematic report on 'Ethnic Origin' contains further information.

HUMAN RIGHTS IMPROVEMENTS

- The Administration of Justice Act has been amended so that as from 1 February 2015 service of process (forkyndelse) may take place digitally. This includes both notices to appear in the case of witnesses and the service of summonses, which can now take place via the public digital mail service of the person in question. Methods may also be combined, so that an e-mail via the public digital mail service to the effect that he or she should call the court can lead to service of process via telephone when that person does call the court. Initial feedback from the courts is positive. Furthermore, at the end of 2015 it was decided that the courts may now generally communicate digitally with all members of the public who are not exempted from using the the public digital mail service. In addition, civil cases will in future be lodged via the courts' electronic case portal, which is gradually being brought into service. It has not yet been decided how quickly the system is to be extended to cover the entire country.

- In February 2016, Parliament passed an amendment extending the scope for video examination of children and young people who have been the victims of or witnesses to serious crime. In the opinion of the Danish Institute for Human Rights, the report of the Standing Committee on Administration of Criminal Justice, which the Bill reproduces, sets out a thorough and balanced review and assessment of the potential for a defendant to ensure their proper defence (including the principle of non-circumstantial evidence) set against the need to protect the child and to obtain an open and detailed explanation from the child.
- Parliament passed a motion in December 2015 to establish a database of jurisprudence delivered by district courts, high courts, the Supreme Court and the Maritime and Commercial Court in both civil and criminal cases. This will ensure that all citizens have the opportunity to conduct searches of anonymised case law and a definite improvement over the current situation is to be expected in terms of gaining an overall view of case law in given areas of the law. In the short term, the courts database is expected to contain judgements in civil cases and selected criminal judgement, and only over the longer term – contingent upon the provided funding and the digital solution – judgements in criminal cases. There is, however, some uncertainty about funding the database in the longer term, and the fact that the database will not include jurisprudence from the courts of the Faroe Islands or Greenland, which are also Danish courts, is open to criticism.
- Lay judges appointed for the period 2016–2019 are now more representative of the make-up of the general population than in previous periods in terms of gender (now identical in proportion for the most part) and ethnicity (84 percent of the anticipated proportion required to achieve full representation). In terms of age, education and socio-economic status there are still disparities however.



NEW CHALLENGES

- In December 2015, Parliament decided that the Defence Intelligence Service should be able to interfere in the secrecy of communications (by wire tapping, for instance) with respect to a person abroad, regardless of whether they are a Danish national or not, if “there are definite grounds to suspect that the person in question participates in activities that may involve or exacerbate a terrorist threat against Denmark and Danish interests”. We criticised the Bill in question for various reasons, including the vague requirements in terms of grounds for suspicion, which leave some doubt as to when such intervention may take place. Before the Bill was presented, the government wanted such interference to be possible without a court order. After extensive public debate, however, the Bill was modified so that it does now require a prior court order.

- In the referendum of December 2015, Denmark voted 'no' to change Denmark's full opt-out arrangements with the EU on Justice and Home affairs to a case-by-case opt-in system. Denmark's participation in EU legislation relating to justice affairs will therefore in the future continue to be negotiated on the basis of so-called parallel agreements, including e.g. cooperation under the auspices of Europol and Denmark's potential later accession to EU legislation, such as the Directive regarding the European Investigation Order in criminal matters, the Council Regulation on insolvency proceedings and the Evidence Regulation. As part of a political agreement in 2015, Denmark does not want to participate in legislation relating to justice affairs such as the Victims Directive, the Legal Aid Directive, and the Directive on the right to interpretation and translation in criminal proceedings.
- In March 2016, Parliament passed a Bill introducing new conditions for obtaining legal aid for appeals to international human rights appeals bodies, such as United Nations committees. The Bill added a requirement that the appellant should have "reasonable grounds" to submit their appeal.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

The right to a fair trial is a fundamental right in all constitutional states. Denmark faces a number of challenges in terms of the right to

a fair trial. In the thematic report (in Danish) on 'Fair Trial', we have addressed the following issues:

- Legal aid and free legal assistance
- Departure from the right of access to documents in criminal cases
- Interference in secrecy of communications
- Punishment and disciplinary measures for acts committed by inmates.

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the Ministry of Justice:

- conduct an overall analysis of the field of legal aid in order to clarify the extent to which the legal aid system should be modified so as to ensure that all citizens have proper access to the legal system.

We also recommend that the government:

- present a Bill amending the provisions of the Administration of Justice Act on legal costs in criminal cases based on the recommendations of report 1547/2014 published by the Committee for prevention and re-socialisation.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 15

THE RIGHT TO HOUSING

Reference is seldom made directly to economic and social human rights in legislation, administrative decisions and case law. This is also the case for the right to housing. However, both legislation and decisions by the authorities and courts often have an indirect impact on whether Denmark upholds the right to housing. Many different factors tend to influence this area. The society's general level of prosperity, changes in the regulation of the welfare state and trends in housing prices can all impact on the number of people who are able to manage their housing situation, as well as the kind of instruments the state can use to help those who are unable to access appropriate housing.

The most significant challenge is the fact that homelessness continues to rise. The increase is primarily a serious human rights issue for the homeless citizens themselves, but it can also be seen as an indicator of structural problems on the housing market and in social intervention.

HUMAN RIGHTS IMPROVEMENTS

- In a decision of September 2015, the Board of Equal Treatment found that a housing association had discriminated against a tenant on the basis of their ethnic origin by not dealing with a report made to the housing association by the tenant regarding harassment from other residents.
- The Court Administration's overview of eviction cases and effected evictions (i.e. evictions carried out by the bailiff's office) shows that the number of eviction cases and effected evictions of tenants continues to fall. The number of eviction cases fell to 16,392 in 2014 from a historical high of 21,338 in 2011. The number of effected evictions fell from 4,405 in 2011 to 3,184 in 2014. The figures for the first half of 2015 indicate that the tendency is continuing.
- In September 2015, the government and Local Government Denmark decided to identify obstacles to the provision of cheap social housing up until the spring of 2016. The Minister of Immigration, Integration and Housing will use the results to assess whether there is a need to adjust or add to the current arrangements.

- The social reserve fund agreement for 2016 has earmarked DKK 36 million for the provision of subsidies to establish and operate “special-needs” housing and “inclusion” housing, for which application may be made by social housing organisations.
- The social reserve fund agreement for 2016 has also earmarked DKK 31.6 million for expanding the special homelessness task force which supports municipalities and shelters in implementing the methods of the Homelessness Strategy.
- The social reserve fund agreement for 2015 earmarked DKK 6.7 million to set up emergency accommodation for all regardless of residence status during the period January to March 2015 and the winter of 2015/2016. The social reserve fund agreement for 2016 has earmarked DKK 8.2 million to set up emergency accommodation in the winters of 2016/2017 and 2017/2018.
- In March 2016, the government and Local Government Denmark (Kommunernes Landsforening) signed an agreement to strengthen the possibilities for municipalities to find housing for refugees. This involved earmarking DKK 150 million for the establishment of temporary housing and DKK 640 million to create small social housing units that would be available at affordable prices.

NEW CHALLENGES

- Surveys from the National Centre for Social Research (SFI) show that the number of homeless continues to rise. From 2009 to 2015, the number of homeless rose by 26 percent. Youth homelessness has nearly doubled, and the number of homeless persons “sleeping rough” has also increased. From 2013 to 2015, the number of homeless people has increased by 318.
- In a memorandum to Members of the Public Accounts Committee issued in January 2016, the Auditor General’s Office followed up on its report of 2014 on measures for homeless people. One of the criticisms expressed by the Auditor General’s Office was that the Minister of Social Affairs has not taken the initiative to identify the causes of the increase in the durations of stays in shelters, addressing the mismatch between the number of shelter places and the number of homeless people or ensuring that there are alternative places of accommodation for young people who are homeless.
- In March 2016, Parliament passed a Bill introducing a ceiling on social security benefits and requirements with regard to the duty of benefit recipients to be available for work (the “225 hour regulation”), as well as on extending integration benefit to those who have not resided in Denmark for seven of the last eight years. The lower benefits and the drop in the number of cheap housing alternatives, combined with the high

number of refugees to whom housing must be allocated, can affect the possibilities for those on the lowest social security benefits to obtain or retain accommodation they can afford. Many of the parties involved in the public consultation process have criticised that low benefits can result in increased homelessness and more evictions.

- The Budget agreement for 2016 contains a housing benefit policy agreement that involves savings on housing benefits. In November, the government presented a Bill on the introduction of a cap on the rent subsidy for social housing for the elderly. This was to apply from 2020, but the Bill was withdrawn after criticism from among others the DaneAge Association (Ældre sagen).
- A survey was conducted in 2015 of discrimination on the private housing market. The survey concluded that there is discrimination against immigrants on the private housing market for rental apartments and that male immigrants in particular are subject to discrimination. No initiatives against discrimination on the private housing market were implemented in 2015 as a result of the survey, contrary to the announcement of the Appeals Board's Unit for Anti-discrimination.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of upholding the right to housing and the rights of homeless persons. In the thematic report (in Danish) on 'The Right to Housing', we have addressed the following issues:

- Access to housing
- Eviction of tenants
- Homelessness
- Criminalisation of homelessness

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends, that the Ministry of Immigration, Integration and Housing:

- take steps to ensure that landlords in the private sector do not discriminate against ethnic minorities, particularly men from ethnic minorities.
- set a specific target for and monitors developments in the supply of cheap housing that people with the lowest incomes can afford.

We also recommend that:

- the government within a short time after adoption of the provisions on integration benefit, the social benefits cap and being available for work (the “225 hour regulation”), undertake an evaluation of the consequences of the Act, including its impact on the number of evictions and number of homeless people, plus any unintended consequences, such as on children who are brought up in the relevant families.
- the government initiate the decriminalisation of begging in the Criminal Code, so that acts of begging may only be prosecuted when begging is detrimental to maintaining public order in a specific situation.

- The Ministry of Social Affairs and the Interior clarify the requirements the municipalities can impose on homeless people, so that the right of the homeless people to public assistance, enshrined in the Constitution, is not unlawfully denied them.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 16

CITIZENSHIP

The field of citizenship is marked by conflicting trends. In the period after the parliamentary elections of 2011, it became easier to qualify for citizenship, but after the elections of 2015, new restrictions were imposed. In the period between the two sets of elections, it became easier to qualify for exemptions from the requirements for naturalisation (grant of citizenship by law), and in 2013 a number of the requirements for naturalisation were relaxed. In 2014, the descendants of immigrants became again entitled to citizenship by making a declaration to that effect before the Regional State Administration, and at the end of that year, possession of dual citizenship were legally permitted, with effect from September 2015. However, a number of administrative issues etc. meant that in the period 2012–14 the annual number of foreigners acquiring Danish citizenship dropped.

Due to the parliamentary election in June 2015 the annual Bill on naturalisation (the grant of citizenship by law) lapsed. Most applicants were however included under a Bill that was presented in the autumn of 2015. As a result of the new stricter requirements adopted in October 2015, a drop in the number of naturalisations is once again to be expected.

In June 2016, the Danish Supreme Court handed down a judgment that stripped a Danish-Moroccan citizen of his Danish citizenship as a consequence of him being convicted of promoting terrorism. Since 2004 a person convicted of crimes against national security can be stripped from his citizenship by judgment, unless he thereby becomes stateless. It is the first case where the law has been applied.

HUMAN RIGHTS IMPROVEMENTS

- The Bill on allowing dual citizenship, which was passed in December 2014, came into force on 1 September 2015. This was accompanied by a change in the fees regulations, so that all children who obtain citizenship are exempt from paying a fee.
- The new naturalisation agreement states that consideration should be given to the possibility of streamlining the procedure for grant of dispensation in order to ensure cases are dealt with within a reasonable time scale.

NEW CHALLENGES

- The new naturalisation circular lays down requirements for naturalisation that may exclude from Danish citizenship those foreigners who have relatively little schooling, or none at all, as well as foreigners with a only a tenuous connection to the labour market. This applies in particular to the language and knowledge requirement, as well as the self-supporting requirement.
- Most applicants who were included in the Bill on grant of citizenship in spring 2015 obtained it six months later than anticipated. Applicants who had been given a commitment that they would be included in a Bill on the grant of citizenship conditional on there being no change in the requirements for citizenship after the elections, must have their application dealt with afresh based on the new stricter conditions.
- The new circular on naturalisation states that applications and requests for reopening applications received by the responsible ministry all the way back to 15 August 2014 and months earlier by the police, must be dealt with under the new stricter conditions. This means that no consideration is given to the fact that the applicants have had legitimate expectations of being granted citizenship over a long period of time.

- The provision of the Nationality Act, which states that applicants who were born and have grown up in Denmark are entitled to Danish citizenship under certain conditions if they make a declaration to this effect before the Regional State Administration has been repealed.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark can strengthen its efforts in relation to non-citizens with close ties to Denmark. In the thematic report (in Danish) on 'Citizenship', we have addressed the following issues:

- Procedures for granting citizenship
- Establishment of a commission on citizenship
- Protection against statelessness at birth
- Children and young persons' right to a citizenship
- Citizenship for immigrants, refugees and stateless persons
- Exemption from requirements for acquiring citizenship
- Loss of citizenship
- Retention of citizenship

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- in collaboration with the Parliamentary Committee for Citizenship, amend the legislation and practice on grant of citizenship so that any refusal of exemption from the general requirements and any rejection on the basis of a security assessment are accompanied by an explanation as to why refusal/rejection has occurred.
 - take steps to ensure that stateless persons born in Denmark receive information as to their legal claim to citizenship, so that parents are informed at the birth of a stateless child, and stateless persons born in Denmark receive information when they turn 18 years.
 - in collaboration with the Parliamentary Committee for Citizenship, amend the legislation on grant of citizenship so that the requirements for naturalisation, including the self-sufficiency-, language- and knowledge requirements, do not exclude vulnerable groups, including stateless persons, from acquiring citizenship.
- take steps to amend the legislation on grant of citizenship so that acquisition of citizenship is made easier for all applicants who are either born in Denmark or who have lived and had legal residence in Denmark for a certain period of time before their eighteenth birthday.
 - establish a commission to prepare legislation, which is to submit proposals for revised legislation on grant of citizenship.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 17

EDUCATION

Denmark continues to face a number of challenges when it comes to ensuring implementation of the right to education and human rights education. The reform of primary and lower secondary schools in 2014 and the efforts to increase inclusion are a positive development; however the changes pose several practical challenges.

In upper secondary education, higher education and adult education and continuing training, there are major challenges that were not adequately addressed by the reforms of 2015. This applies for example to the significant drop-out rate from vocational education and training programmes, particularly among adolescent males from ethnic minority groups.

In 2015, the national well-being measurements were made mandatory at primary and lower secondary schools and municipal special schools. In future, the well-being measurements of 2015 can be used to trace developments in a more systematic manner. The measurements have shown that a sense of insecurity and lack of well-being among pupils are most widespread in schools with the largest proportions of children of migrant background and parents with low incomes.

HUMAN RIGHTS IMPROVEMENTS

- Despite significant challenges relating to inclusion of pupils with special needs, the preliminary results of a more comprehensive survey by the National Centre for Social Research (SFI) on inclusion of pupils with special needs in primary and lower secondary schools indicate that most pupils are happy with the levels of inclusion and that their well-being and participation are relatively stable over time.
- Citing the UN Convention on the Rights of the Child, the Parliamentary Ombudsman confirmed in June 2015 that all children have the right to be heard prior to expulsion or being made to leave school, and this also applies to students at private schools or independent boarding schools for secondary students.
- In 2015, four out of seven university colleges that offer teacher training programmes decided to offer a module on the teaching of human rights for trainee teachers in 2016.

NEW CHALLENGES

- In 2015, after a number of inspection visits, the Parliamentary Ombudsman found that several internal schools at municipal care centres (for children in care outside their home) do not offer teaching that is adequate for the children placed there. The Ombudsman commented on the principle that children and young people placed in care who attend an internal school at a municipal care centre have the same right to teaching in all subjects taught at primary and lower secondary schools as the pupils in these schools.
- A major study published by the National Centre for Social Research (SFI) in December 2015 shows that boys, ethnic minorities and pupils from homes where the parents are not well-educated perform worse on average when assessed on a continual assessment basis by their teachers than when entered for an exam and assessed on that basis.
- In 2015, the Parliamentary Ombudsman stated that a municipality may not reject a request to exercise the option of free choice of school in the field of special education on grounds of cost. The Ombudsman confirmed that the decision to turn down such a request must be based on an assessment of the actual contents of the educational provision offered and not simply the cost.
- From 1 February 2016, police initial training at the Police Academy has been shortened from three years' initial training to two years' basic training. It is still not known whether and to what extent teaching of human rights will be part of the new programme or the police's continuing and further education and training.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES AT THE BEGINNING OF 2016

- In January 2016 Denmark was examined by the Human Rights Council as part of the Universal Periodic Review. One recommendation was that Denmark take greater steps to prevent and deal with bullying in schools and consider the introduction of monitoring of anti-bullying strategies in schools. A second recommendation was that inequality in the legal status of different minority languages be dealt with and steps taken to ensure that all children, regardless of their legal status, have access to the same quality of teaching as children in Danish primary and lower secondary schools. Finally, Denmark was recommended to provide teaching on human rights for children in primary and lower secondary education and upper secondary education, and include teaching on diversity in the curricula of primary and lower secondary schools.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

In the field of education, Denmark can increase its efforts to ensure access to education and human rights education for pupils in primary and lower secondary schools, as well as students in key professional education programs. In the thematic report (in Danish) on 'Education', we have addressed the following issues:

- Inclusion
- Accessibility
- Teaching of Danish as a second language and mother tongue instruction
- Bullying and well-being in primary and lower-secondary school
- Drop-out rate from and well-being in vocational education and training programmes among young males from ethnic minorities
- Action plan for human rights education

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that:

- the Ministry for Children, Education and Gender Equality and the municipalities ensure that all municipal primary and lower secondary schools, as well as special schools, devise the anti-bullying strategies required by law.
- the government establish a national action plan for human rights education for the entire education sector.
- the National Police ensure that education in human rights is adequately incorporated in the police's new basic training and the further education and training programme offers.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 18

EXPULSION AND EXTRADITION

In 2015, as part of implementation of the government's new asylum policy (Asylpakken), a number of amendments were made to the provisions of the Aliens Act relating to the deportation of rejected asylum seekers, and other foreign nationals without legal residence in Denmark. These are amendments that may put pressure on the right to liberty and free movement of foreign nationals.

NEW CHALLENGES

- An amendment of November 2015 to the Aliens Act laid down that rejected asylum seekers and other foreigners without legal residence who do not leave Denmark voluntarily will generally be required to stay in a departure centre and report regularly to the police. It was also decided that a new departure centre would be created in Jutland.
- The same amendment also laid down that the aforementioned foreign nationals should "as far as possible be detained". In the case of rejected asylum seekers, however, this would only be if other less intrusive measures such as an obligation to report, obligation to stay in a departure centre and decreased allowances (kostpenge) are not enough to ensure they leave the country.
- In November 2014, the Ministry of Justice established a working group consisting of representatives from the Ministry of Justice, the National Police and the Immigration Service that would examine what could be done to ensure better enforcement of the reporting and residence obligations for those with leave to remain on "tolerated stay" provisions. The working group has not yet submitted its report, but, in response to a parliamentary question in January 2016, the Minister for Immigration, Integration and Housing stated that she was in the process of considering initiatives that might help ensure better enforcement of the reporting and residence obligations. The possibility of detention will also be looked at, as will a reduction in financial benefits. If possible, the current arrangements for the use of tagging will be tightened further.
- The above initiatives and amendments to legislation may raise issues under article 5 of the European Convention on Human Rights on the right to liberty and article 2 of its fourth protocol on the right to freedom of movement.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Expulsion and extradition of persons from Denmark is an area that involves human rights challenges. In the thematic report (in Danish) on 'Expulsion and Extradition', we have addressed the following issues:

- Expulsion by judicial decision due to criminal involvement
- Expulsion of foreigners suspected of terrorist involvement
- Use of diplomatic guarantees in connection with extradition
- Foreigners with leave to remain under the 'tolerated stay' provisions
- Residence and reporting obligations for rejected asylum seekers and other foreigners without legal residence in Denmark

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- take steps to amend the Aliens Act so that immigration authorities, in cases of a rejected asylum seeker scheduled to be expelled, can continuously assess whether "special grounds", such as family reasons, have arisen that would compel the authorities, on their own initiative, to reassess the rejected asylum application so that the individual could regain a residence permit in Denmark. Weight can be given to whether the individual has had residence and reporting obligations imposed on them over a longer period, and whether expulsion appears to be futile.
- reconsider the regulations governing residence and reporting obligations for foreigners on tolerated stay so as to ensure that the conditions for these individuals are in accordance with Denmark's human rights obligations.

We also recommend that Danish authorities:

- regularly take decisions based on the specifics of a case as to whether continuing to impose residence and reporting obligations on a foreign national under the tolerated stay provisions would be contrary to the prohibition on inhuman and degrading treatment of article 3 of the European Convention on Human Rights.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 19

UNREGISTERED MIGRANTS

No one knows precisely how many unregistered migrants are living in Denmark. When the Danish Medical Association, the Danish Refugee Council and Red Cross drew up their first memo on unregistered migrants' health problems in 2010, they referred to research reports which estimated that there were between 1,000 and 5,000 unregistered migrants in Denmark. In 2014, the Ministry of Health estimated the number at between 20,000 and 22,000. According to a study by the Research Unit at Rockwool Fonden in 2014, the figure was between 20,000 and 50,000. It is clear that the figures are extremely uncertain, but with the current refugee and migrant crisis, it can be assumed that the number of unregistered migrants in Denmark is rising.

The unregistered migrants are living under very different conditions. Some are entitled to stay in Denmark for a shorter or longer period, while others have no legal residence in Denmark. However, common for them all is that their residency status provides them with only limited rights under Danish legislation and/or only limited possibilities to invoke these rights because of the risk of registration, detention and deportation. Unregistered migrants are therefore vulnerable with regard to securing their basic economic and social rights and needs, as well as with regard to exploitation and abuse, including human trafficking etc.

HUMAN RIGHTS IMPROVEMENTS

- In early 2015, the City of Copenhagen set up a 'transit programme' in collaboration with a number of voluntary organisations. As an element in the programme, the voluntary organisations provide various types of services for homeless, unregistered migrants, including medical services, shelters, counselling and drop-in centers. The Copenhagen City Council has decided to earmark an annual DKK 2.7 million from 2016 to 2019 to continue the transit programme.
- Political parties to the social reserve fund allocated DKK 6.7 million in the 2015 agreement to establish emergency accommodation for unregistered migrants from January to March 2015 and in the winter 2015/2016, and they have allocated funding of DKK 8.2 million in the 2016 agreement to establish emergency accommodation in the winters 2016/2017 and 2017/2018.

NEW CHALLENGES

- In November 2015, the Danish Parliament agreed that everyone without legal residence should in general be detained and to extend possibilities to detain foreigners in order to establish their identity and register them. The legislative amendment also means that, in exceptional circumstances, the Minister for Immigration, Integration and Housing can suspend the requirement for judicial review within three days of detention. This is intended for situations in which a large number of asylum-seekers arrive in Denmark, but suspension of the time limit for a judicial review will apply for all detained foreigners. The Institute has criticised the regulations for authorising the government to make decisions that conflict with Denmark's international obligations.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in terms of the human rights of unregistered migrants. In the thematic report (in Danish) on 'Unregistered migrants', we have addressed the following issues:

- Access to health services for unregistered migrants
- Unregistered migrants and homelessness
- Immigration control and criminal prosecution by the police
- Trafficking in human beings

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government take steps to:

- prepare an overall policy in relation to unregistered migrants in accordance with human rights standards.
- stipulate regulations to ensure that unregistered women are entitled to examination and treatment during pregnancy and childbirth as well as access to abortion.
- specify in health legislation that unregistered children are entitled to the same health services as children with legal residence in Denmark, including the right to child health examinations and immunization programmes for children, etc.
- secure emergency accommodation for homeless, unregistered migrants for the whole year.

We also recommend that the Ministry of Justice and the National Police:

- cease the practice of using 'on-the-spot fines' for foreigners.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 20

ARMED CONFLICT

2015 saw both the initiation and continuing implementation of initiatives designed to ensure greater compliance with humanitarian law and human rights during international military operations and armed conflict.

HUMAN RIGHTS IMPROVEMENTS

- The development of a Danish military manual continued in 2015. Public meetings were held on the manual and a draft of the manual was sent for external consultation in January 2016.
- The military manual will address a number of the questions that have arisen in recent years in connection with Denmark's active international military efforts. The Ministry for Foreign Affairs has informed the Institute that "an important element of the future manual will indeed be to address the question of the extent to which Danish forces are bound by human rights in connection with participation in international operations abroad and the interaction between international humanitarian law and human rights". Among other issues, the manual will

touch on the protection of detainees and on Danish obligations on transfer of prisoners to other states. The Ministry of Defence has stated that a number of the Institute's recommendations will be dealt with in more detail in the manual.

- In 2015, the Ministry of Defence continued its collaboration with the Afghanistan Independent Human Rights Commission (AIHRC) with a view to strengthen its capacity to carry out independent inspections of prisoners' conditions in Afghan prisons, including the conditions of prisoners detained by Danish soldiers and transferred to Afghan authorities.
- In 2014 and 2015, the Ministry of Defence conducted a reorganisation of the Military Prosecution Service (FAUK), one aim of which was to strengthen the Prosecution Service's independence in investigating alleged violations of military conduct. In our view, there is a need for further measures to strengthen the Prosecution Service's independence, and more generally monitoring of the actions of Danish forces during armed conflict.

- A compensation case against the Danish state is pending at the Eastern High Court in connection with the treatment of prisoners in Iraq in 2004 by Danish forces. This will presumably clarify certain areas of doubt relating to international law.
- In 2015, the Danish Institute for International Studies conducted a study of Danish experience in integrating international humanitarian law (IHL) and international human rights law (IHRL) in training and capacity building projects in third countries. One of the study's recommendations was that special emphasis be given to training and capacity building within IHL and IHRL in the Nordic Defence Cooperation (NORDEFECO).

NEW CHALLENGES

- In 2015, the government decided to discontinue the enquiry into Denmark's participation in the wars in Iraq and Afghanistan. The enquiry had been set up by the previous government in 2012 and was due to report in 2017. It is clear from the government's political programme 'Together for the future' of June 2015 that the government believes that the reasons for Danish participation in the war in Iraq and aspects relating to Danish soldiers' detention of individuals during Denmark's involvement in the wars in both Iraq and Afghanistan have been adequately dealt with. On 2 July 2015, the Minister for Justice decided that the Iraq

and Afghanistan enquiry should cease its deliberations.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015

- In November 2015, in connection with the review of Denmark, the UN Committee against Torture expressed concern about the shutting down of the Iraq and Afghanistan enquiry. The Committee recommends that the transfer of prisoners be investigated by an independent body.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

In recent years, Denmark has participated in several international military operations and actively participated in several armed conflicts, including in Afghanistan, Iraq, Libya and, most recently, in Mali in 2013.

Denmark's participation in these conflicts has created a number of new issues in relation to international law obligations and Danish law and practice. First: when is it lawful to take part in an armed conflict (*jus ad bellum*)? And secondly: which provisions of international law regulate the conduct of the war (*jus in bellum*)?

In the thematic report (in Danish) on 'Armed Conflict', we have addressed the following issues:

- On what legal basis do the Danish armed forces operate?
- Detention and deprivation of liberty of prisoners of war
- Transfer of prisoners
- Protection of children
- Danish forces' collaboration with and capacity build-up of the armed forces of other states
- Rights of Danish soldiers, interpreters and of other support personnel
- Monitoring of violations of human rights and international humanitarian law
- Training in international humanitarian law and human rights

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that:

- the Ministry of Defence, the Ministry of Foreign Affairs and the Ministry of Justice clarify the extent to which Danish forces involved in international military operations are bound by international human rights obligations, the Constitution and by other Danish legislation.
- the Ministry of Defence bring to a conclusion the former Defence Command Denmark's internal investigation of the handling of prisoners in Iraq. The investigation was interrupted in 2012 when the independent Iraq and Afghanistan enquiry was set up.

- the Ministry of Defence and the Ministry of Foreign Affairs investigate and report on the compliance of the Military Prosecution Service (FAUK) with the procedural investigation requirements, laid down on the basis of article 2 of the European Convention on Human Rights, including whether FAUK has the necessary institutional, hierarchic and practical independence from the Danish Defence.
- the Ministry of Foreign Affairs and the Ministry of Defence take the initiative in creating a permanent monitoring and advice body that ensures that Denmark complies with its international human rights obligations during international operations.
- the Ministry of Defence devise a due diligence policy for use when providing aid to and collaborating with the armed forces of other countries.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

CHAPTER 21

FREEDOM OF EXPRESSION AND ASSEMBLY

Freedom of expression has been intensely debated over the past year. The tragic attacks in both Paris and Copenhagen in 2015 underscore the fact that real and serious threats may be linked to exercising one's freedom of expression and assembly. This is particularly the case when expressing oneself through art and satire, which have a great media impact across borders and cultural and language barriers.

The attacks in Paris and Copenhagen have also led to debate on penalties for incitement to terrorism. The Criminal Code does actually restrict freedom of expression for "anyone who publicly explicitly incites terrorism".

Since the cartoon crisis in 2005, there has been public and political debate about the extent to which Danish law should take account of freedom of expression. In 2015, the Criminal Law Council submitted a report reviewing the legal consequences of a potential repeal of the Criminal Code's provisions prohibiting blasphemy. The former government decided not to propose an abolition of the ban.

The Committee on Public Employees' Freedom of Expression and Right to Inform submitted

a report in April 2015. The Committee found that there is a need for a long-term ongoing information campaign on public employees' freedom of expression. The Committee was not of the view that there needed to be legislation governing the freedom of expression of public employees. The Committee was also unanimous in rejecting the idea of any legislation governing public employees' right to inform (whistleblower arrangements), but recommended instead that each individual authority considers whether it is appropriate to introduce such arrangements for its own area.

The Freedom of Information Act of 2014 also encountered criticism in 2015. The Act will be evaluated by the Parliamentary Ombudsman in 2017.

In September 2015, the Eastern High Court handed down judgement in the so-called "Tibet case". During the visit of the Chinese President to Denmark in 2012, the police confiscated Tibetan flags from demonstrators. During the High Court case, new information emerged possibly implicating the police in a failure to safeguard the constitutional right of citizens to freedom of expression and assembly. Investigations by the Independent Police

Complaints Authority and an enquiry set up by the Minister for Justice are pending as to where to apportion responsibility in this matter.

Following on from this, the think tank Justitia undertook a study showing that over the last 10 years there has been a rise in the number of recorded occurrences of administrative detention under the Police Act. The response to a parliamentary question on the matter stated that the National Police cannot “identify any single unequivocal reason for the increase”. The Minister for Justice has asked the National Police to report on this matter.

NEW CHALLENGES

- There is a growing tendency of threats, attacks and hate speech against persons participating in public debate. This may have the result that citizens refrain from participating in public debate, open debate events, other gatherings, etc.
- On the basis of the assessment of the Criminal Law Council, the former government decided not to submit a proposal to abolish the prohibition on blasphemy under the Criminal Code.
- Fear of terror and violence leads to restrictions on the rights of all citizens, via increased application of the Criminal Code’s restrictions on freedom of expression and freedom of information as part of the initiated counter-terrorism measures.

DANISH ISSUES EXAMINED BY INTERNATIONAL BODIES IN 2015 AND AT THE BEGINNING OF 2016

- In 2015, Denmark was reviewed by the UN Committee on the Elimination of Racial Discrimination (CERD). The Committee recommended that Denmark take effective steps to combat hate speech, including racist remarks on the Internet. Politicians are committed to creating a spirit of tolerance and inter-cultural understanding between different groups. The Committee also recommended that Denmark develop a national action plan to combat racism, with particular emphasis on combating hate crime.
- In January 2016, Denmark was examined by the UN Human Rights Council as part of the Universal Periodic Review (UPR). Denmark was recommended to decriminalise libel and slander and allow them to be treated solely as a civil law matter.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges related to freedom of expression and assembly. In the thematic report (in Danish) on ‘Freedom of Expression and Assembly’, we have addressed the following issues:

- Public employees’ freedom of expression
- Hate speech
- The Criminal Code’s prohibition on blasphemy

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- launch initiatives to raise awareness of the regulations on the freedom of expression of public employees, particularly as concerns their loyalty obligations.
- take steps to legislate on shared burden of proof and increased compensation in the event of unfair dismissal in cases of the freedom of expression of public employees.
- consider trialling a whistleblower scheme in selected areas.
- take steps to abolish the criminalisation of blasphemy under section 140 of the Criminal Code.

We also recommend that the Ministry of Justice and the National Police:

- ensure greater safeguards on freedom of expression and assembly in connection with political statements and public gatherings.

Read the full text in Danish and all recommendations at menneskeret.dk/status.

CHAPTER 22

THE ELDERLY

In 2015 both the European Court of Human Rights and the UN have focused on the protection of the rights of the elderly.

In May 2015, the European Court of Human Rights handed down a judgement against the Slovenian state to the effect that it had infringed the right to a fair trial, because it had required an elderly citizen who was not IT literate to keep themselves informed via the use of digital media or print media that were difficult to access.

Under the auspices of the United Nations, a working group is developing a recommendation or possibly a legally binding convention on the rights of the elderly.

In the Danish context, there is still a lack of awareness about violence and abuse directed at the elderly. There is a lack of suitable tools for dealing with suspected abuse. In certain regions, however, the area is receiving attention. In line with a similar response system in the Capital Region of Denmark, the Central Denmark Region has formulated guidelines on how health-care personnel are to identify and manage signs of assault on patients. The other

regions have not formulated any policy in this area.

The Ministry of Health has submitted a draft amendment to the Health Act for public consultation. The proposed amendment will allow the regions to require that permanently legally incapacitated patients who have been admitted to hospital wear personal alarm and tracking systems, and to detain these patients.

The Danish Institute for Human Rights has launched a study of whether the use of force ought to be possible in special cases in order to ensure that permanently legally incapacitated persons have equal access to treatment for somatic symptom disorders.

HUMAN RIGHTS IMPROVEMENTS

- The state authorities have been working on the rights of the elderly, particularly the rights of those who are especially vulnerable and legally incapacitated.

- An amendment to the Social Service Act which came into effect on 1 January 2016 is intended to ensure that the most vulnerable among the elderly are given greater priority via preventive home visits. On the other hand, the age threshold for annual home visits has been raised to the age of 80, whereas it was 75. The municipalities must offer preventive home visits to elderly persons between the age of 65 and 79 who are in a particularly difficult life situation, where they have lost their spouse, are particularly isolated or have been discharged from hospital, for instance.
- The National Budget earmarked DKK 75 million for 2015 and DKK 150 million for 2016 to allow the municipalities to offer the most vulnerable recipients of home care additional time of at least half an hour per week using a punched card (klippekort) model. Accordingly, the individual home-care services recipient can themselves decide how the time is to be used in agreement with their home carer.
- The National Board of Social Services has issued a number of booklets and guidelines on dementia, including on preventing aggressive behaviour among persons with dementia and on the use of force.
- The National Social Appeals Board has published its survey of how the municipalities handle the provisions on the use of force in relation to persons with dementia (Kommunernes håndtering af

magtanvendelsesreglerne over for borgere med demens). It shows that in practice there are doubts as to what constitutes use of force and that mistakes are made in 50 percent of all cases. In light of this, the Ministry of Social Affairs and the Interior will review its guidelines on the use of force and other interference in the right of self-determination of adults.

- The Ministry of Health is working on a national action plan designed to enhance efforts directed at persons with dementia in Denmark.
- Several authorities and organisations are working on ensuring that the interior design and security aspects of sheltered housing are suitable for persons with dementia.
- The local authorities can now simplify the exemption processes in several important areas. Of relevance for those among the elderly who are not IT literate, it is now possible to allow a one-off exemption for applications for various types of pension and pension supplements, various types of housing subsidy, EU health insurance cards and funeral expenses.

NEW CHALLENGES

- The common public-sector digitisation strategy, which in principle means

compulsory online self-service for all citizens, was fully implemented in 2015. Generally, exemption from having to use the system must be sought separately for each area covered by the mandatory digital contact, and it remains with the authorities to decide who may be exempt from this regulation.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Elderly people have the right to dignity and personal integrity and must be protected from degrading treatment. Denmark can strengthen its efforts to safeguard elderly people's rights in several areas. In the thematic report (in Danish) on 'The Elderly', we have addressed the following issues:

- Protection of the vulnerable elderly from abuse
- Care of elderly persons with dementia
- Digitisation of communication with the public authorities

RECOMMENDATIONS

Among other things, the Danish Institute for Human Rights recommends that the government:

- ensure that front-line staff have adequate knowledge of how to prevent, identify and report abuse of the elderly.

- enable a general exemption from digital communication for vulnerable elderly people.
- take the initiative in changing the guidelines on use of force against adults as well as amending the Social Service Act and the Executive Order on the Use of Force to ensure that care staff do not encounter situations where they have to choose between, on the one hand, failing to provide persons with dementia and others with severe long-term incapacity the necessary care and, on the other, providing such care without the proper legal basis.
- present a Bill to amend the Health Act so that it is possible to accommodate critical treatment needs of permanently legally incapacitated persons in line with the given circumstances and regardless of their objecting to the treatment.

We also recommend that the public authorities:

- attach considerable weight to citizens' own assessment of their IT skills and access to the necessary IT equipment when assessing whether to grant an exemption from the obligatory online self-service approach.

Read the full text and all recommendations in Danish at menneskeret.dk/status.

