

Stakeholder Submission – DENMARK:

A network of professionals

“BARNETS TARV NU”

Text about server problems to be considered in the examination of Denmark in January and February 2016:

A network of professionals – working for a change of The Act on Parental Responsibility since it is seen as beaching fundamental rights and various conventions.

Dearest reader of this text,

As I am one of the spokespersons for the network Barnets Tarv NU, I am sending the UN delegation comments about the situation in Denmark concerning the Act on Parental Responsibility and the so called “divorce-package”. Two more “packages” have been announced following up on the path that is already implemented making the field gender-neutral and not considering special attention to reproductive health for women and children as well as being more or less blind around violence and abuse issues.

The network was asked to comment the new legislation when revision took place in 2012 but our comments was not seen to have any impact on the revised law from 2012.

The network has in Denmark various times been asked to comment the new legislation in Denmark from official side on in the field where family matters are considered changed. In these situations we have expressed deeply concerns both about no fair trial and also because the sex- and gender blindness as well as blindness toward issues and dynamics around violence in the family field.

The legislation is an experiment in the family field trying to implement gender-neutrality and equality forgetting many children’s’ best interests

The field regulated by the new Act from 2007 unfortunately causes various, many and sever problems. One of the ideas behind the law was to establish more gender equality. Because of the problems, the law was revised in 2012, but the ground principles stayed the same as in the Act from 2007.

The politicians in the Parliament wanted with this new legislation to experiment to see if a new set of principles could work since many parents break up and have to negotiate about the custody, residence and the visitation rights over the children.

Unfortunately the focus in Parliament was on equal rights over the child and not so much on the protection of the child and the protection of the mother. The concept “the best interests of the child” was not defined and therefore used in order to achieve the goals set up.

In 2014 a new legislation added on further sanctions towards the parent, who are not able or willing to corporate about f.x. visitation for the child with the other parent. The problems are seen in many cases in

the field but most often in cases with abuse or neglect issues. Also babies and small children are sometimes put at risk because the corporation is linked with the ability to serve as a parent so many parents corporate about the visitation even it is not in the child's best interests is my experience. That is too reported from many in the network.

An EU-fact-finding committee has been involved in the situation and has expressed deeply concern about the situation as you see below.

This was written after an investigation here in an official paper:

"The Working Document indicates that the Danish Parental Responsibility Act - which makes contacts of a child with both parents obligatory - sometimes creates perverse effects, according to the petitioners and the members of the delegation, whereby mothers risk being imprisoned for protecting their child from abusive fathers and abusive fathers obtain contact and even full custody rights to the children they abuse.

In its recommendations the Committee underlines that Denmark's opt-out from certain provisions of the Treaty does not exclude it from fully respecting its political obligations under the Charter of Fundamental Rights of the EU, the European Convention on Human Rights and the Hague Convention on the Civil Aspects of International Child Abduction.

The Committee considers it not acceptable that as a result of an opt-out from Treaty provisions, legal uncertainty is produced which severely impacts on international child custody cases, which in turn can seriously jeopardise the fundamental rights of the child causing unnecessary additional trauma and suffering to all concerned, especially the child.

Denmark is urged to ensure that the Child Protection Convention is fully complied with and that the Brussels II A Regulation is implemented."

This statement was followed up by a press release in February 2014:

"The Chairwoman of Committee on Petitions Erminia Mazzoni expressed the concerns of the majority of the petitions committee. As decided at the end of the discussion, she would write a letter to the Danish government and invite it to react to the deliberations by the PETI Committee. Also a letter would be sent to Mrs. Viviane Reding, European Commissioner for Justice, urging her to approach the Danish government to discuss changes in the way Denmark handles custody and child welfare cases."

Huge numbers of cases

Increase of conflicts between parents about their children has been detected on all levels from 2007 and up to now. It is estimated that around 10% of the cases being dealt with in the systems are cases with serious matters involved such as violence, abuse or neglect. It is also estimated that around 100.000 cases need to be revised because not given a fair trial. Some parents involved suffer now from Post Traumatic Disorder and children are of course also affected by the way the cases are being dealt with various ways.

No fair trial takes place during the time cases are decided in the State Administration in Denmark

Seen from my standpoint as an attorney there is unfortunately not a fair trial in these types of cases where visitation is asked for. No court case takes place even the important issues dealt with. The field is run by an administrative body "The State Administration" in Danish: Statsforvaltningen.

The decisions from there can be enforced by the enforcement courts even the administrative procedure do not allow witnesses to be involved and speak, the parties do not speak under oath, child-experts are not allowed being examined or orally asked about their reports and the case is not decided by a judge. No legal aid to the parties available in The State Administration so many clients can not afford to be represented by an attorney and a lot of pressure to close the case via a settlement is put on the parties' shoulders. At no time there is a screening for violence – not even before a mediation takes place.

Violence in Denmark – in the family field not taken properly care of in cases in the State Administration and in the courts

If you look at the FRA-report Denmark is unfortunately scoring very high in this field.

<http://www.theguardian.com/world/2014/mar/05/violence-against-women-eu>

It seems that some professionals deny the problems in practice or instead put their focus on the equality issues. There is no screening for violence or abuse, as mentioned earlier, taking place in cases about divorce, residence and/or visitation what leads to problematic situations.

Media-attack on (family)attorneys who helps women and children – perhaps with serious chilling-effect so that information in cases in the administrative body "Statsforvaltningen" is not coming into the case because of fearing of sanction and because of the new legislation.

The 12. of March attorney and mediator Vivian Jørgensen and myself (the two of us especially), and the group of (family) attorneys generally, were defamed via most of the Danish press and media (DR, TV2, TV2 NEWS and Radio24syv). This happened during a whole day as a top scandal with out any reason. The situation still goes on since links and podcasts are placed online.

Please take a look here:

<http://nyhederne.tv2.dk/samfund/2015-03-12-liste-saadan-snyder-advokater-boern-ud-af-dine-haender>

A Danish transcription of the announcement of the not-true scandal presented primetime in the news program as breaking news in TV2 is seen in the enclosed file.

I will translate it into English a.s.a.p. – as well do I have some screen prints that I can display, so you can see the massive hetz against attorneys that day and the following. Unfortunately it is in a pdf-file-format so I am afraid that I can't upload it directly. Please advise how the material can be sent to you.

Medias attacking attorneys without documented good reasons is scary in a State where rule of law should be a fact. Unfortunately it seems that authorities are not aware of the alarming developments in this field since many have the focus on gender equality. Perhaps also because of the complexity in the field including legal matters, sex and gender issues, reproductive health issues and understanding of the dynamic of violence, the alarming situation is not properly dealt with yet.

What can happen is a chilling effect so that other attorneys do not dare to help women/mothers with advice. Another thing is that women could give up to protect themselves and to protecting their children against violence and abuse since it seems impossible to get an understanding of the situation from official side on because the legislation is sex and gender blind and blind concerning dynamics in violent situation. It seems that f.x. not allowing separate-meeting to get information from a victim of violence even a request is sent to the State Administration in advance.

The police is therefore now involved in the matter and asked to investigate the severe situation. The Bar and Law society and the branchorganisation "Danske Advokater" are both following the situation but not being directly involved yet.

We guess that this attack on us happened since we for a long time have been speaking up about these severe problems via the network "Barnets Tarv Nu". Because some mothers and children are forced by the State Administration (Statsforvaltningen) and sometimes also by the enforcement court to hand over children to dangerous situations and situations where the best interests of the child is not what is considered.

It is of course alarming if attorneys, as part of the legal system, who has an obligation to speak up about problems detected, are not able to speak up but sanctioned and put at risk what we are now.

Concluding remarks

Please contact me so I can explain more in details what horrible situation some citizens here in Denmark faces and experience and how the situation now has increased since attorneys are now tried to be scared away from mentioning violence and abuse for their clients. .

Much material can be provided from our side to inform about the situation.

A book is in press to come out with articles and cases in English in August this year (2015). The book will be dealing with the above mentioned issues and will be following three Danish books already published in 2008, 2010 and 2011.

<https://www.djoef-forlag.dk/da/forfattere/d/deleuran-pia>

As you perhaps remember the Danish Institute for Human Rights in a report from last year with the title "A life without violence", chapter 13, pointed out problems found in this field.

<http://www.menneskeret.dk/udgivelser/ret-liv-uden-vold> , so a part of what we write about here is already out in the open. Unfortunately it is not dealt with so we need international assistance. We hope you can help us get back on track.

Sincerely yours as spoke-person for Barnets Tarv NU

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