

# *Council of Europe contribution for the 38<sup>th</sup> UPR session (Jan-Feb 2021) regarding Denmark*

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## Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

2019 report:



CPT\_2019\_Denmark.pdf

Government response:



CPT\_2020\_Gov\_Denmark.pdf

## Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

On 31 January 2019, the Commissioner submitted to the European Court of Human Rights her [third-party intervention in the case of M.A. v. Denmark](#) (application no. 6697/18). This case concerns the refusal to grant family reunification to a person with temporary protection status, because he had not yet held a residence permit for three years. In her submission, the Commissioner observed that persons with subsidiary or temporary protection should be considered to be in a similar situation to refugees with regard to access to family reunification. She underscored that long waiting periods before an application for family reunification is accepted, including the three-year period in Denmark, fail to meet the requirement of promptness.

On 12 January 2016, the Commissioner sent a [letter to the Danish Minister for Immigration, Integration and Housing](#), focusing on amendments to the Aliens Act which had been introduced in November 2015. The Commissioner expressed concerns that these resulted in the increased use of detention, and the elimination of important legal safeguards, which could lead to disproportionate and indiscriminate infringements of the right to liberty of asylum seekers. The letter also addressed a package of amendments before the Danish Parliament at that time, which would limit access to family reunification for certain categories of beneficiaries of international protection. As regards the proposal to postpone the right to family reunification by three years for those receiving temporary protection, the Commissioner expressed concern over the compatibility with Article 8 of the European Convention on Human Rights and the UN Convention on the Rights of the Child. He also noted that proposals to tighten the criteria to obtain a permanent residence permit would run counter to the aim of promoting a speedy and effective integration. Finally, the Commissioner strongly criticised the proposal to seize assets of asylum seekers arriving in Denmark, in order to cover their subsistence needs, which could amount to an infringement of human dignity and could violate the right to property under Article 1 of Protocol 1 of the European Convention on Human

Rights.

## **Fight against racism and intolerance (ECRI)**

The European Commission against Racism and Intolerance (**ECRI**) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.

Conclusions on Demark (adopted on 23 march 2017 /pulished on 16 may 2017)



**ECRI\_Denmark\_2017.  
pdf**



**ECRI\_Denmark\_Gover  
ment comment.pdf**

Conclusions on Denmark (adopted on 7 April 2020 / published on 2 June 2020)



**ECRI\_2020\_25\_Denna  
rk.pdf**

## **Steering Committee on Anti-Discrimination Diversity and Inclusion (CDADI)**

*Under the authority of the Committee of Ministers and bearing in mind the Council of Europe’s legal standards, the jurisprudence of the European Court of Human Rights and the findings and recommendations of the relevant monitoring mechanisms, the CDADI steers the Council of Europe’s intergovernmental work to promote equality for all and build more inclusive societies, offering effective protection from discrimination and hate and where diversity is respected. The work of the CDADI shall take into account the work of the European Commission against Racism and Intolerance (ECRI), without prejudice to the latter’s mandate.*

*The CDADI advises the Committee of Ministers on all questions within its mandate, including preventing and combating hate speech and discrimination on the grounds covered by ECRI, with a particular focus on fighting anti-Gypsyism and improving the active participation and inclusion of Roma and Travellers in society, safeguarding the rights of persons belonging to national minorities and the use of regional or minority languages, and promoting intercultural integration.*

*The CDADI promotes and facilitates thematic exchanges and peer reviews of experience and good practice among Council of Europe member States to develop common policy responses, analyse implementation and fulfil any other task assigned to it by the Committee of Ministers.*

COVID-19: An analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member states



## Protection of minorities

### Framework Convention for the Protection of National Minorities

*The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.*

The Advisory Committee on the Framework Convention adopted the 5<sup>th</sup> Opinion in respect of Denmark on 7 November 2019.



The resolution of the Committee of Ministers on the implementation of the Framework Convention for the Protection on National Minorities by Denmark will be adopted on 21 October 2020. The text will be available at this date on the Committee of Ministers website: <https://www.coe.int/en/web/cm>

### European Charter for Regional or Minority Languages

*The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. Since the entry into force, in July 2019, of the reform of the monitoring mechanism, the subsequent reports are presented at five-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.*

The Charter entered into force in Denmark in 2001. The authorities submitted their 5th periodical report in February 2017.



**MIN-LANG\_2017\_PR3  
\_Denmark.pdf**

The Committee of Experts adopted its evaluation report on Denmark in June 2017 and the corresponding Committee of Ministers' recommendations were adopted in October 2017.



**ECRML\_2017\_5th\_rep  
ort\_Denmark.pdf**



**ECRML\_Recommenda  
tion\_CM\_2017\_Denna**

On 8 October 2020, the Committee of Experts of the Language Charter adopted its evaluation of the implementation of the recommendations for immediate action contained in the Committee of Experts' fifth evaluation report on Denmark. This evaluation will be made public mid-October on the Charter's website: <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/home>

### ***Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM)***

*Following the High-Level meeting, intergovernmental work on Roma issues has been upgraded: on 16 February 2011 the Ministers Deputies adopted terms of reference for a new Committee of Experts (CAHROM) to be answerable directly to the Committee of Ministers. The [terms of reference](#) - which have been renewed by the Ministers Deputies for the years 2018-2019 - place emphasis on the analysis and evaluation of the implementation of national policies and thematic exchanges of experience and good practices. European Union institutions, international organisations, the European Roma and Travellers Forum and other relevant (Roma and Traveller) organisations are associated as observers to the CAHROM.*

### ***Action against trafficking in human beings (GRETA)***

*The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.*

*The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.*

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GRETA evaluation report (2<sup>nd</sup> evaluation round):



GRETA\_2016\_7\_Denmark.pdf

## Preventing and combating violence against women and domestic violence (GREVIO)

The Council of Europe Convention on preventing and combating violence against women and Domestic violence ([Istanbul Convention](#), CETS No. 210) is the most far-reaching international treaty to tackle this serious violation of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.

The Council of Europe Istanbul Convention provides for two types of monitoring procedures:

1. a country-by-country evaluation procedure;
2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.

[GREVIO](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

## Protection of children against sexual abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “[the Lanzarote Convention](#)”, requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The “Lanzarote Committee” (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme.

At the end of each round, the Lanzarote Committee adopts “implementation reports” which contain its assessment of the situation with respect to the monitored Parties.

To mark the different level of action required by Parties to improve the situation, the recommendations addressed by the Lanzarote Committee to Parties in its implementation reports use the verbs to “urge”, “consider” and “invite” as follows:

- “**urge**”: when the situation is not in compliance with the Convention, or when, despite the existence of legal provisions and other measures, the implementation of a key obligation of the Convention is lacking;
- “**consider**”: when further improvements are necessary in law or in practice to fully comply with the Convention;
- “**invite**”: when one or several promising practices are highlighted to suggest enhanced protection of children.

Denmark ratified the Lanzarote Convention on 18 November 2009 and it entered into force in its respect on 1 July 2010.

### **1<sup>st</sup> monitoring round on the “Protection of children against sexual abuse in the circle of trust”**

This was carried out between 2013 and 2018 and focused on the protection of children against sexual abuse in the circle of trust. It led to the adoption of two implementation reports, one related to the [legal framework](#) and the other to the [strategies](#) to tackle the phenomenon.

The recommendations requiring Belgium to take steps to implement the Lanzarote Convention effectively in the context of this monitoring round were as follows:

On the criminalisation of sexual abuse of children in the circle of trust, the Lanzarote Committee:

- **Urges** Denmark to review its legislation to ensure effective protection of children from situations where abuse is made of a recognised position of influence (R F.1).

On the collection of data on child sexual abuse in the circle of trust, the Lanzarote Committee:

- **Urges** Denmark to take the necessary legislative or other measures to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of the sexual exploitation and sexual abuse of children in general and child sexual abuse committed in the circle of trust, in particular (R F.13).
- **Considers** that Denmark must set up a national or local system for recording case-based data for child sexual abuse in the circle of trust cases in the various sectors liable to come into contact with children victims in such instances; such administrative data collection systems should be implemented allowing to compare and cross-check the data thus collected at national level and

avoid duplication (R F.15).

As to the best interest of the child and child friendly criminal proceedings, the Lanzarote Committee:

- **Considers** that when sexual abuse is inflicted by someone in the child's circle of trust, the child victim is in a particularly delicate situation of having to report a crime made by someone who he or she trusted, respected and possibly loved. This situation, which can create a serious disturbance on the child's family life and overall wellbeing, needs to be addressed specifically (R F.22).
- **Considers** that information and advice should be provided to child victims in a manner adapted to their age and maturity, in a language they understand, and which is gender and cultural sensitive (R F.23).
- **Considers** that interventions and measures which are taken in the context of domestic violence operate on a different modus operandi to those established in child sexual abuse cases. An explicit mention of sexual abuse should therefore be included in all protection measures with regard to domestic violence (R F.28).
- **Urges** Denmark to take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care (R30).

On child participation, the Lanzarote Committee:

- **Considers** that Denmark should further encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual abuse of children in the circle of trust specifically (R S.1).

On raising awareness on sexual abuse of children in the circle of trust, the Lanzarote Committee:

- **Considers** that the possibility of sexual abuse of children occurring within the family should be explicitly addressed in awareness raising efforts, with the intent to prevent it (R S.7).

On awareness raising strategies on sexual abuse of children in the circle of trust, the Lanzarote Committee:

- **Considers** that awareness raising actions targeting children should be age appropriate and make use of interactive methods as well as of information and communication technologies (R S.8).
- **Considers** that awareness raising actions focused on the risks and realities of sexually abused children in the circle of trust should be continuous and systematic. Parties should envisage including these activities in their national action plans for children's rights (R S.9)

On education for children, the Lanzarote Committee:

- **Considers** that Denmark should specifically address the issue of sexual abuse in the circle of trust in the information provided to children during primary and secondary education (R S.10).
- **Considers** Denmark should put more emphasis on adapting the information given to children to their evolving capacity, thereby making it age-appropriate (R S.11).



- **Considers** that Denmark should further involve parents (and adults exercising parental responsibilities) in the provision of information given to children on sexual abuse, including in the circle of trust (R S.13).

On specialised training, the Lanzarote Committee:

- **Considers** that, if it is not doing so yet, Denmark should provide specific regular training about child sexual abuse in the circle of trust for professionals working within the police, prosecution, child protection and health services (R S.14)

On intervention or measures offered during the different stages of judicial proceedings, the Lanzarote Committee:

- **Urges** Denmark to put in place effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed, in the pre-trial phase of the procedure (R S.29).
- **Considers** that if Denmark has alternatives to imprisonment, it should ensure that intervention programmes and measures are in place (R S.32).

### **Urgent monitoring round on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”**

On victim identification, the Lanzarote Committee:

- **Considers** that Denmark should put in place effective mechanisms for data collection with a specific focus on children affected by the refugee crisis who are victims or presumed victims of sexual exploitation and sexual abuse and review the possible removal of obstacles to the collection of such data, in particular, where they exist, legal restrictions to do so, with due respect for the requirements of personal data protection (R7).

On the distinction made between victims prior to the entry on territory and after entry, the Lanzarote Committee:

- **Considers** that, while providing adequate protection to child victims irrespective of where the exploitation/abuse occurred, Denmark should do its utmost to be able to distinguish between sexual exploitation and sexual abuse occurring prior to the entry of the child victim on its territory and after the entry (R11).
- **Considers** that Denmark should fulfil obligations to prosecute the offenders and to provide international co-operation between the Parties in instances where the offence occurred prior to arrival on the territory for the purpose of investigation and prosecution (R12).

On the Parties’ approach to protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Denmark should encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that preventive measures in regards to protection from sexual exploitation and sexual abuse are in place and protective measures are taken as speedily as possible (R13).

On preventing children affected by the refugee crisis from being sexual exploited and sexually abused, the Lanzarote Committee:

- **Considers** that information and advice concerning prevention of and protection from sexual exploitation and sexual abuse should be provided to children affected by the refugee crisis in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture (R15).
- **Considers** that Denmark and other Parties to the Convention should exchange information on awareness raising activities which specifically focus on the risks faced by children affected by the refugee crisis with respect to sexual exploitation and sexual abuse (R17).

On the protection of children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Denmark should ensure that its specific recommendations on the child-friendly handling of proceedings involving children victims of sexual abuse be implemented also in the context of proceedings involving children affected by the refugee crisis (R31).
- **Considers** that, if it has not yet done so, Denmark should encourage and support the setting up of specific information services such as telephone or Internet helplines to child victims of sexual exploitation and sexual abuse affected by the refugee crisis as well as persons wishing to help them to provide advice in a language which is understandable to them (R32).

On co-operation in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Denmark and other Parties to the Convention should agree on common strategies/procedures to effectively deal with the phenomenon of cross-border missing children (R35).

On data collection and coordination in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Denmark and other Parties to the Convention should reinforce or put in place a coordinated approach between the different agencies in charge in order to facilitate the prevention and protection of children affected by the refugee crisis from sexual exploitation and sexual abuse (R37).

### **Fight against corruption (GRECO)**

*The 'Group of States against Corruption' (GRECO) monitors all its 50 members through a peer review evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.*

*Fifth Evaluation Round: "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies".*

Here is the he latest evaluation report of 4 September 2019:



**GRECO\_Eval2018\_8\_Denmark.pdf**

Denmark is currently in GRECO's **non-compliance procedure** as regards corruption prevention in respect of Members of Parliaments, Judges and Prosecutors for failure to implement a certain number of our recommendations, notably as regards corruption prevention amongst Members of Parliament. Here is the last compliance report of 5 February 2020:



**GRECO\_2019\_30\_Denmark.pdf**

## ***Execution of judgments and decisions of the European Court of Human Rights***

### ***Statistical data***

On 31 December 2019, there was 1 case (0 cases on 31 December 2018) against Denmark pending before the Committee of Ministers for supervision of their execution. It is a "leading cases" evidencing more or less important general problem. In 2019, the CM was seized by 1 new leading case (0 new leading cases in 2018) and the amount of just satisfaction awarded was € 2,000 (€ 0 awarded in 2018). In 2019, no cases were closed by the adoption of a Final Resolution (1 case closed in 2018).

### ***Main cases / groups of cases under the Committee of Ministers' supervision***

The case presently under the Committee of Minister's supervision covers the authorities' failure to obtain an external expert opinion when reviewing the necessity of continuing "safe custody" of the applicant.

Tim Henrik Bruun Hansen, Application no. 51072/15, judgment final on 09/10/2019, standard supervision

For fuller overview of the situation see the Country Factsheets (available on the website of the Department for the Execution of Judgments of the European Court of Human Rights): <https://rm.coe.int/1680709745>

and in the Committee of Ministers' Annual Reports on its supervision activity: <https://rm.coe.int/annual-report-2019/16809ec315>

More detailed information on the status of execution in individual cases can be found through [Hudoc-EXEC](#)

### ***Important cases closed recently***

In 2018, the Committee of Ministers ended its supervision of a case relating to discrimination: refusal of the applicants' request for spousal reunification without compelling or weighty reasons in comparison to the more favourable conditions for family reunion applying to persons who had held nationality for at least 28 years resulting in indirect discrimination on the ground of ethnic origin (Biao, Application no. 38590/10, judgment final on 24/05/2016, see [Final Resolution](#)).

### ***Social and Economic Rights (ECSR)***

*The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.*



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**ESC\_January\_2018\_De  
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## Venice Commission

The European Commission for Democracy through Law (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

n/a for the European Commission for Democracy through law for the period 2015-2020.