

SUPPLEMENTARY NGO REPORT

- to the Danish Government's 3rd periodic report
submitted to The UN Committee
on the Rights of the Child

January 2005



THE DANISH INSTITUTE FOR
HUMAN RIGHTS

>> RED BARNET UNØDOM <<



THE DANISH YOUTH COUNCIL



DUI-LEG og VIRKE



amnesty international



Save the Children
Denmark

Supplementary NGO Report

- to the Danish Government's 3rd periodic report submitted to
The UN Committee on the Rights of the Child

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I: INTRODUCTION

The organizations behind this report

1. This, third supplementary NGO Report to the UN Committee for the Rights of the Child (the Committee), has been drafted by eight organizations represent in a network of a number of NGOs with a particular interest in children's rights. Together with The National Council for Children and The Danish Institute for Human Rights, this network has existed since 1991, referred to as the "*Samarbejdsgruppen om Børnekonventionen i Danmark*" (the collaborating group on the Children's Convention in Denmark). 14 organizations participate in total. The aim is to heighten awareness of the UN Convention on the Rights of the Child in order to promote its implementation and its optional protocols in Danish legislation and practice, as well as the rescinding of the Danish reservations. Issues concerning Greenland and the Faroe Islands can also be dealt with.

2. The National Council for Children, which participates in the network, is drafting its own supplementary report, therefore, it is not among the organizations and institutions behind this report.

The following organizations make up the Reporting Group¹:

- Amnesty International
- The Danish Youth Council (*Dansk Ungdoms Fællesråd*)
- The Danish Council of Organisations of Disabled People (*De Samvirkende Invalideorganisationer*)
- DUI - LEG OG VIRKE
- The Danish Institute for Human Rights (*Institut for Menneskerettigheder*)
- Save the Children Denmark (*Red Barnet*)
- Save the Children Denmark Youth (*Red Barnet Ungdom*)
- UNICEF Denmark

About the writing of this report

3. The writing of this report represents a joint effort by seven of the participating organizations together with The Danish Institute for Human Rights, under the name "the Reporting Group". Each organization has provided input to the report, primarily in relation to the core areas that the individual participating organization works with. Moreover, the Danish Refugee Council has been consulted regarding questions concerning refugees, applicants for asylum, and immigrants.

4. The section pertaining to Greenland has been written in Greenland by the Save the Children Denmark local committee in Nuuk. Together with other organizations in Greenland, the Save the Children Denmark local committee is working for the establishment of drop-in centres and clubs for socially vulnerable children and youth.

5. The Reporting Group has benefited from valuable dialogue about sections in the report, and the group edited the final report together. The content in the individual section therefore represents an expression of the views of the entire Reporting Group. Save the Children Denmark has coordinated the reporting process and has provided the resources necessary for the editing, final compilation, and the printing of the final report.

General remarks to the Danish report

6. The Reporting Group approves of the fact that the Danish report conforms to the General Guidelines for Periodic Reports 20/1196, and that a section concerning Greenland has been included; how-

¹ For more information about these organizations, see the appendices.

ever, a corresponding report pertaining to the conditions in the Faroe Islands is warranted. The Reporting Group finds that it would have been beneficial to consult the relevant NGOs in connection with the drafting of the official Danish report.

7. Issues in the government report that the Reporting Group has not commented are neither to be construed as consenting with the content in the official report nor anything to the contrary; rather, it is merely an expression of the fact that the Reporting Group has prioritised the issues appearing in this report.

II: GENERAL IMPLEMENTARY MEASURES

Incorporation of the UN Convention on the Rights of the Child - article 4

Concluding Observations/Comments 2001

15: The Committee encourages the State party to consider the incorporation of core international human rights instruments, including the Convention on the Rights of the Child, into domestic law. In this regard, the Committee urges the State party to give equal weight to all international human rights instruments. It is recommended that the State party include in its next periodic report information on the recommendations of the expert committee and the decision of the Government regarding this issue.

8. The committee has issued a general statement, General Comments no. 5 (2003): “General measures of implementation of the Convention on the Rights of the Child”, pt. 20, indicated that the Committee considers incorporation to be favourable, and that such incorporation ought to mean, partly, that the provisions of the Convention can be directly invoked before the courts and utilized by the national authorities, and partly, that the Convention will have the greatest weight in those instances where there might be conflict between the Convention and national courts. The same view is found in the “Implementation Handbook for the Convention on the Rights of the Child, 2002”, p. 66.

9. The Convention on the Rights of the Child has relevance for more than one million children and youth in Denmark; however, legislation has yet to be passed incorporating it into Danish law.

10. The Danish Government, in section 2.B1. of its report to the Committee, makes reference to the fact that non-incorporated conventions, including the UN Convention on the Rights of the Child, also constitute a legal basis in Danish courts. The Reporting Group does not find that this entails that the UN Convention on the Rights of the Child receives greater weight than Danish legal traditions in the event of conflict between Danish legal traditions and the Convention. The Reporting Group feels that this lack of incorporation creates a lack of clarity regarding the extent to which the UN Convention on the Rights of the Child can be drawn upon in Danish courts.

11. As justification for this lack of incorporation, the Danish Government makes reference in its report to the fact that the committee responsible for considering such incorporation (*Inkorporeringsudvalget* – the Incorporation Committee), including the UN Convention on the Rights of the Child, has recommended waiting upon gradual experience with the incorporation of other conventions. The Incorporation Committee has emphasized that the opportunity to register individual complaints in connection with the UN Convention on the Rights of the Child does not exist. In this regard, the Reporting Group wishes to make mention of the fact that the lack of opportunity to register individual complaints on the international level ought precisely to lead to the incorporation of the UN Convention on the Rights of the Child in Danish courts. This would make it clear that the Danish courts and other Danish authorities are responsible for ensuring that the Convention is respected on the national level.

12. The European Convention on Human Rights is incorporated into Danish law. The incorporation of this convention has had significance for awareness of this convention and increased the utilization of the Convention in Danish courts and other bodies of Danish authority. A similar effect will presumably be achieved via the incorporation of the UN Convention on the Rights of the Child.

13. The Reporting Group does not find that the arguments forwarded by the Incorporation Committee as the justification for the failure to incorporate the UN Convention on the Rights of the Child speak decisively against incorporation.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Does that which has been implemented in Danish legislation live up to the recommendations made by the Committee in 2001 and to the recommendation made in the General Comments no. 5 (2003): *“General measures of implementation of the Convention on the Rights of the Child”, pt. 20.*
2. How will the Danish Government promote the awareness and utilization of the UN Convention on the Rights of the Child so that it attains a level comparable to the European Convention on Human Rights, and does the Danish Government believe that this level can be attained without incorporation?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the UN Convention on the Rights of the Child be incorporated into Danish law.
2. That a date be set by which time incorporation in the Danish legal system is to have taken place.

Implementation of the UN Convention on the Rights of the Child in Denmark - articles 4, 42 and 44. 6

Concluding Observations/Comments 2001

24: The Committee notes the efforts of the State party to disseminate, including through the Internet, the principles and provisions of the Convention within schools and among professionals working with children, including teachers, school administrators and police personnel. However, it remains concerned that children and professionals working with and for children are not fully aware of the Convention and the principles enshrined therein.

25. The Committee recommends that the State party reinforce its efforts to systematically and continuously disseminate the principles and provisions of the Convention and to ensure that the Convention is systematically incorporated into the school curriculum and the training activities of professional groups and administrative bodies, at all levels of society, working with and for children.

14. A number of areas continue to exist in which Denmark does not respect the UN Convention on the Rights of the Child. This is owing to the fact that the relevant bodies of authority are not sufficiently living up to their obligation to disseminate information about the UN Convention on the Rights of the Child and its principles among children, relevant professional groups and other decision-makers who, in the course of their work, meet children or make decisions that have consequences for children (article 42).

15. The Danish Government report to the Committee, section II.C, states that awareness of the UN Convention on the Rights of the Child is to be spread through school teaching and the materials published by organizations and The National Council for Children. The Reporting Group confirms that various teaching materials have been developed by organizations and by The National Council for Children. The Reporting Group finds it unsatisfactory that the teaching and utilization of these materi-

als takes place far too arbitrarily. It is up to the individual school and teacher whether teaching about the UN Convention on the Rights of the Child is to take place, in which manner, and to what extent.

16. For example, children's rights are mentioned in very few ministerial orders for education programmes as regards courses of education targeting work with children. It is up to the individual educational institution whether children's rights are to be included in the curriculum and in that case, at which level.

17. Denmark has no general policy for children and youth; and strategy for children and youth based on the UN Convention on the Rights of the Child has yet to be developed. While some municipalities have developed policy for children and/or youth, it is not necessarily based on the UN Convention on the Rights of the Child.

18. Denmark has yet to develop a national action plan in extension of the Children's Summit in 2002 in New York (UNGASS) – (see section IV for more on this).

19. In 2004, in connection with reform concerning the placement of children outside of their own home, the Danish Government encouraged the Danish municipalities to develop an integrated policy regarding children. While it is positive that the municipalities are encouraged to develop policy for children, it would be preferable for such policy to be based on the principles and national prioritisations in the UN Convention on the Rights of the Child, and in so doing, strengthening the implementation on the national level and not merely leave this question to the individual municipalities.

20. The Reporting Group does not feel that the Danish Government has spread awareness of the previous reports to the Committee and the Committee's concluding remarks. The population, or more specifically, the politicians and relevant professionals, have not been informed sufficiently (article 44.6). In many respects, there is only sporadic familiarity with the Convention; it is therefore not utilized strategically in the legislation and administration of questions regarding children.

21. The general lack of the spreading of awareness of the UN Convention on the Rights of the Child and its principles constitutes a barrier to the UN Convention on the Rights of the Child being realized in Denmark and for it to attain an impact that can ensure that children's rights become respected – both at the societal level, in the local community, where children are living their daily life – and in relation to the individual (article 4).

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Which operational activities will the Danish Government implement to ensure that awareness of the UN Convention on the Rights of the Child becomes more widespread?
2. Will the Danish Government develop overriding national strategies and a general policy for children based on the UN Convention on the Rights of the Child?
3. Will the Danish Government encourage the Danish municipalities to develop policy for children based on the UN Convention on the Rights of the Child?
4. Will the Danish Government see to it that the ministerial orders for the relevant educational programmes contain provisions regarding teaching about the UN Convention on the Rights of the Child and how it is put in practice.

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the Danish Government implements systematic efforts to raise awareness concerning the UN Convention on the Rights of the Child and how it can become relevant for all children in Denmark.

2. That the Danish Government develops strategy aimed at children and an integrated policy for children based on the UN Convention on the Rights of the Child.
3. That the Danish Government encourages all Danish municipalities to draft policy for children based on the UN Convention on the Rights of the Child.
4. That the ministerial orders for all relevant education programmes include provisions that teaching be provided about the UN Convention on the Rights of the Child; about its content and its significance in practice, and that the UN Convention on the Rights of the Child be implemented in obligatory curricula.
5. That analyses of consequences be conducted on all levels in society in connection with decisions of significance for children.
6. That themes and educational materials dealing with the UN Convention on the Rights of the Child be translated into the most commonly spoken languages among ethnic minorities in Denmark.

International development aid and collaboration regarding development

22. In the spring of 2004, Denmark began developing a long awaited and portended strategy and guidelines for the involvement of children and youth in development work. This strategy is not yet available in its final version.

23. The Reporting Group appreciates that Denmark has a strategy for children and youth and that the UN Convention on the Rights of the Child and the 2015 UN objectives have received central placement. This strategy includes a number of relevant guidelines regarding activities contributing to the reinforcement of the position of children and youth. The problem is that this strategy is not binding; rather, it is formed as inspiration for implementation on various levels in the joint efforts regarding development. The Reporting Group therefore feels that there is a risk that the specific recommendations included in “Denmark’s partnership 2000” (the strategy for Danish development aid policy), which specifically point out the significance of children in the development process, will not be fully implemented.

24. Over the course of recent years, Danish development aid has been reduced significantly. Denmark continues to remain above the recommended 0.7% of annual GDP, but both the negative signal value and the specific deterioration resulting from these cutbacks is regrettable; particularly in those instances where this has entailed lacking or deteriorated measures in relation to the violation of children’s rights.

25. The Reporting Group believes it is problematic that the extent of the actual cutbacks is difficult to discern on account of contrasting calculation methods.

26. The Reporting Group applauds Denmark’s increased focus on education; in addition to the existing sector programmes in Nepal, Mozambique and Zambia, it will also include sector programmes in Benin, Burkina Faso, Bolivia, Bhutan and Nicaragua, as well as transition relief in Afghanistan and South Africa.

27. In the course of recent years, the development of strategies for preventing poverty in the developing countries (the so-called Poverty Reduction Strategy Papers (PRSP) processes) have become central instruments for the development of national strategies and thereby also the coordination of donor aid for the developing countries. However, these strategies have done little to integrate children’s rights.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. How does the Danish Government ensure that the inclusion of children and youth in Danish development work becomes binding for all of the relevant actors?

2. How will the Danish Government influence the other actors (the EU, multilateral institutions etc.) to increase focus on development aid?
3. How will the Danish Government ensure that children's rights are worked into the strategies for the prevention of poverty in the developing countries (the PRSP process)?
4. How have the cutbacks in Danish development aid impacted children and youth in the developing countries, and which initiatives will be taken to compensate for possible negative side-effects?

THE COMMITTEE OUGHT TO PROVIDE THE FOLLOWING RECOMMENDATION TO THE DANISH GOVERNMENT:

1. That the consideration of children's rights be made an obligatory aspect of the joint efforts with the primary receiving countries, and compensation must – if necessary – be made for possible side-effects.

III: GENERAL PRINCIPLES - ARTICLES 2, 3, 6 AND 12

Non-discrimination – article 2

Concluding Observations/Comments 2001

26. The Committee is aware of the measures taken by the State party to promote non-discrimination through, inter-alia, the amendment to the Criminal Code and the preparation and dissemination of a brochure concerning ethnic minorities and the police. However, the Committee notes that de facto discrimination against and xenophobia directed at certain groups of children, especially children belonging to ethnic minorities, refugee and asylum-seeking children, children belonging to migrant families, children with disabilities and those belonging to socially and economically disadvantaged families continue to be of concern, including within the education.

27. In light of article 2 and other related articles of the Convention, the Committee recommends that the State party strengthen its measures, including through the Board for Ethnic Equality by, inter alia, organizing ongoing awareness raising campaigns to change attitudes and to eliminate de facto discrimination against and xenophobia directed at minority groups, especially children belonging to migrant families, refugee children, children with disabilities and children belonging to socially and economically disadvantaged families.

The Danish Board for Ethnic Equality

28. The Danish Board for Ethnic Equality was abolished in 2002 as a result of the passage of legislation pertaining to the establishment of the Danish Centre for International Studies and Human Rights. According to this legislation, this Institute – in addition to being a national human rights institution – also has a mandate to serve as a nationally independent organ for the promotion of the equal treatment of ethnic minorities, as stated in EU Directive 2000/43/EC, as concerns the implementation of the principle pertaining to the equal treatment of all, regardless of race or ethnic origins (The Equal Treatment Framework Directive). The implementation of EU Directive 2000/43/EC has similarly proceeded via Act no. 374 of 28 May 2003 on Ethnic Equal Treatment, where The Danish Institute for Human Rights was granted opportunity to handle specific complaints regarding the violation of the prohibition against differential treatment on the grounds of race or ethnic origin. The Danish Institute for Human Rights established the Complaints Committee for Ethnic Equal Treatment to serve this function.

Extended legal representation for unaccompanied asylum-seeking children

29. As of 1 April 2003, legal representation has been assigned to a greater extent than was previously the case when processing applications for asylum from unaccompanied asylum-seeking minors (cf. Act no. 60 of 29 January 2003 on the revision of the Aliens Consolidation Act and the Integration Act (Processing of cases involving unaccompanied asylum-seeking children).

30. This revision means that no unaccompanied child applying for asylum will have his or her application for asylum rejected without first having received legal counsel. In other words, an attorney must already be appointed during possible treatment in the procedure for manifestly unfounded applications. The Danish Immigration Service will assign this attorney in the event that decision is made subsequent to the asylum interview that a case is to follow this procedure. The attorney is to support the child prior to and during the interview with the Danish Refugee Council (*Danske Flygtningehjælp*) and any subsequent treatment in the Refugee Board (*Flygtningenævnet*).

31. If the child's application for asylum is denied, the Danish Immigration Service automatically decides whether he or she is to receive a special residence permit granted to children in the event that they risk exposure to a genuine emergency upon repatriation cf. the Aliens Consolidation Act, section 9c, subsection 3 paragraph 2. In this phase, the child receives no legal representation.

32. This decision is made on the basis of an assessment of the unique conditions experienced by the individual child, including whether the child has relatives or an alternative social network in their home country. (There can be cases in which the parents are dead and there are no living relatives in the home country, or where the child is cut off from getting in contact with parents or relatives). Emphasis is also placed on the general conditions in the child's country of origin, e.g. there can be talk of war or famine, meaning that the children will risk exposure to an emergency upon possible repatriation.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTION TO THE DANISH GOVERNMENT:

1. How will the Danish Government ensure that the child's need for further legal assistance in the subsequent ex officio assessment of whether the child is to receive the special residence permit for unaccompanied children seeking asylum cf. the Aliens Consolidation Act section 9 c, subsection 3, paragraph 2?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATION TO THE DANISH GOVERNMENT:

1. That it ought to be ensured that the attorney has opportunity to support and advise the child during the asylum application process as well as during the possible consideration of the special residence permit referred to in the Aliens Consolidation Act section 9 c, subsection 3, paragraph 2 to ensure that the decision concerning the residence permit in Denmark is made on an adequate background.

Guardian arrangement for unaccompanied asylum-seeking children

33. In 2003, new legislation came into effect, which dictated that unaccompanied asylum-seeking children are to be appointed a representative, i.e. a guardian, to attend to the interests of the child/youth. The guardian's function is concentrated around the child's application for a residence permit in Denmark, and they are to attend to the child's interests in personal matters, e.g. as regards schooling, recreational interests, medical treatment and personal development. In addition, the guardian is also to assist the child to maintain his/her cultural and religious affiliations, if the child so desires.²

² cf. Guidelines for Guardians, written by the former Ministry of Integration, together with The Danish Immigration Service, the Civil Law Directorate, the Danish Red Cross, and with contributions from the Danish Refugee Council, 2003".

34. The Reporting Group is very positive over the fact that unaccompanied asylum-seeking children are to have a guardian appointed to attend to their interests in the course of their application for asylum, and that the guardian also serves as temporary guardian subsequent to the granting of asylum. The socially disadvantagedness with this arrangement is that it must be 'expense-neutral' and build on voluntary, unpaid work. In practice, this means that those persons who are appointed as guardians are to cover the expenses arising from e.g. transportation, entrance fees, activities etc. out of their own pocket. Similarly, the guardian receives no compensation for lost earnings in connection with meetings that take place during normal working hours. The Reporting Group finds this to be open to criticism. These factors render it more difficult to recruit qualified guardians and signal a lack of respect for the unaccompanied children who seek asylum. The view of the Reporting Group is that this constitutes unreasonable differential treatment of children. In corresponding arrangements regarding social affairs, Danish municipalities cover the expenses incurred by contact persons related to children with permanent residence in Denmark³.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. How does the Danish Government plan to ensure that all unaccompanied asylum-seeking children have a qualified guardian?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATION TO THE DANISH GOVERNMENT:

1. As a bare minimum, the persons assuming the responsibility to serve as guardians ought to have their expenses covered in connection with fulfilling these responsibilities. Furthermore, the arrangement ought to also correspond to the arrangement applicable for children with permanent residence in Denmark.

Children with disabilities

35. Children with disabilities are almost completely ignored in the Danish Government report to the UN Children's Committee.

The Reporting Group does not find that it is in accordance with article 2 only to inform about the conditions for children with disabilities cf. article 23 of the Danish Government report (sections VII.A.+ A.1+A.2+A.3). Children with disabilities ought to be regarded as an integrated part of questions concerning the conditions of children. Special conditions concerning children with disabilities are therefore dealt with in this report within the relevant sections and articles.

Placement of children and youth with foreign ethnic origins, articles 20.3. and 30

36. In 2003, approximately 14,000 children and youth in Denmark were placed outside of their homes. Of these, approximately 6,500 were placed in foster families and roughly 3,300 in residential homes for children and young people⁴. A study indicates that in 2000, 13,533 children were placed outside of the home, of which 618 were the children of immigrants and 337 were the children of the descendants of immigrants. According to the same study, children of the descendants of immigrants between 0-9 years of age were placed outside of the home to a lesser extent than children of Danish ethnicity. The children of descendants in all age groups are placed outside of the home to a lesser extent than is the case

³ According to The Social Services Act section 40 Stk. 2, 6 and 7, the municipality can appoint a personal advisor or permanent contact person to a child or youth requiring special support. According to the Social Services Act, the municipality covers the expenses for these arrangements, unless such measures are covered by the basic rate taxes (cf. section 129 subsection 3, 1).

⁴ "Børn og unge anbragt uden for eget hjem pr. 31.december 2003", see <http://www.statistikbank.dk> BIS2

with children of Danish ethnicity.⁵ The explanation for this can be, as The Danish National Institute of Social Research has indicated, that it is not possible to respect the cultural and linguistic needs of these children. Consequently, ethnic minority children are not placed outside of the home to the same extent nor according to the same assessment as ethnic Danish children.⁶ The lack of necessary measures for ethnic minority children results in this situation being allowed to develop to the detriment of ethnic minority children. The Reporting Group regards it as troubling that the children of ethnic minorities are not placed to the same extent and according to the same assessment as ethnic Danish children.

37. Most of the ethnic minority children are placed in Danish foster families or residential homes with Danish personnel. Studies indicate that in three out of four cases involving ethnic minority children, consideration has not been granted to the child's ethnic background. In connection with such placements, the children often have no opportunity to use and further develop their mother tongue.⁷

38. Consequently, the child risks encountering difficulties in developing a close relationship to his/her foster family, as well as losing contact with his/her biological parents and relatives on account of the language barrier.

39. The Reporting Group finds this problematic in relation to articles 20.3 and 30.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Which initiatives does the Danish Government intend to take in relation to the Danish municipalities, such that ethnic minority children placed outside of the home have their ethnic, linguistic, religious and cultural backgrounds respected in order to be able to experience a cohesive childhood and not be subject to discrimination?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. Initiative ought to be taken to develop family placements and other placement types with the necessary knowledge and respect for ethnic minority children.
2. Specifically, it is ensured that the children are not cut off from meaningful contact with their parents because of inadequate linguistic development.
3. The Danish Government ought to continuously follow the development of and the conditions for the placement of ethnic minority children.

Attending to the best interest of the child in relation to social issues - article 3

Concluding Observations/Comments 2001

28. The Committee is concerned that the general principle of the best interest of the child (art.3) is not fully applied and duly integrated in the implementation of the policies and programmes of the State party. In this regard, the Committee notes that the rights of parents are often found to be more important than the best interest of the child.

29. The Committee recommends that further efforts be made by the State party to ensure the implementation of the principle of the best interest of the child in its laws, policies and programmes for children, as well as in all judicial and administrative decisions concerning children.

⁵ Skytte, Marianne. 2002. "Anbringelse af Etniske Minoritetsbørn". Lund: Lund Dissertations in Social Work.

⁶ Tine Egelund and Signe Andrén Thomsen: "Tærskeler for anbringelser". A vignette study about the study of the assessments made by the social administration in cases involving children. 02:03.

⁷ Tine Egelund, Anne Dorthe Hestbæk and Dines Andersen "Små børn anbragt uden for hjemmet", The Danish National Institute of Social Research. 04:17.

The best interest of the child in social legislation

40. Danish social legislation ought to form a good safety net for vulnerable children and youth. In both 2001 and 2003, the relevant legislation has been further reinforced and indicates a broad spectrum of opportunities for assistance for children and youth with special needs. This legislation explicitly states that decisive emphasis be placed on support being offered according to what is deemed to be the best interest of the child; furthermore, the views of the child, depending on the maturity of the child in question, are always to be included and attributed appropriate weight. In the event of conflict between the interests of the parents and the best interest of the child, consideration is to be granted to the best interest of the child.

The best interest of the child in socially disadvantaged families

41. Most children and youth in contemporary resourceful Denmark live in relatively strong families with a high standard of living. They participate in recreational activities, have friends, and generally thrive; however, there is also a group of children and youth who do not enjoy a particularly 'good' childhood. This is confirmed in several studies conducted by The Danish National Institute of Social Research⁸, in which 20% of Danish families with children are regarded as being entirely or somewhat socially disadvantaged. These families are marked by arguments, divorces and mental health problems. Many of the mothers are single and plagued by depression. Children in these families often experience problems relating to several of the following areas: relations to parents, relations to friends, attention problems, and anxiety. It is characteristic that the parents do not possess the strength to help their children and that the children are not 'spotted' by childcare workers in day-care.

42. The Reporting Group regards the situation that these children are in to be troubling. Assistance to these families has often focused on the adults. Social workers, teachers and others encountering these children through their work must become significantly better at identifying these children and ensuring specific assistance to them. Otherwise there is a risk that the children suffer throughout their childhood without access to the help and care that they require and have a right to (articles 3 and 6).

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Will the Danish Government take initiatives capable of increasing focus on children in socially disadvantaged families with regards to particular measures aimed at helping these children to thrive throughout their childhood?
2. Will the Danish Government allocate resources for the improvement of the basic and supplementary education programmes for social workers and others working with children and youth, and ensure that there is far greater focus on detecting and providing support to the children in such socially disadvantaged families?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That methods must be developed for detecting and providing early intervention in relation to socially disadvantaged families, ensuring specific support to the children in such families.
2. That the education of those working with children and youth, such as social workers, must be improved so that the personnel becomes more proficient in terms of providing specific support to children in socially disadvantaged families.

The best interest of the child in social casework

43. Several reports document that children and youth are not involved in cases concerning their own lives. The explanation is that it is difficult for many caseworkers to speak with children when difficult

⁸ "7 *Års Beretning*", The Danish National Institute of Social Research, 2004.

decisions are to be made; or they speak with the child, but fail to orient themselves in relation to the child's reaction and opinions.

44. The municipal caseworkers do not conduct systematic, comprehensive preliminary investigations aimed at determining the correct measures to be taken. The child and families must be included in the action plans stating the nature of the measures to be taken, their duration, and other plans for the child and the family and as regards conditions regarding their interactions. It is lamentable that the action plans required by law are not sufficiently developed. The child and family therefore often do not know what is to happen. This is a serious indication of a lack of respect for the best interest of the child, their well-being and development, and the child's right to be involved (articles 3, 6, and 12).

Rita, 9 years of age, has described this in an interview⁹:

'I came in the middle of the night, so everything went very fast ... and then I was supposed to sleep ... But it is strange when you wake up and you don't know where you are. You think: 'Have I been captured?' ... but I found out what it was all about after a couple of days.'

The best interest of the child in the choice of social service measures

45. The number of children being placed outside of their own home has been increasing in recent years. This increase does not appear to have come to a stop. Instead, the municipalities now utilize measures such as various forms of consultation and family therapy. It is positive that a child does not necessarily have to be removed from his/her home and that attempts are made with alternative measures in relation to the family; however, the Reporting Group is worried that such forms of support are provided as an alternative to placement in the absence of sufficient knowledge as to what provides the best results or which children and families can benefit from placement outside of the home or from family therapy.

46. The Reporting Group finds that children and youth with special needs are neglected – not by the legislation, but by the process leading to the implementation of social measures, because the involved professional groups do not possess sufficient knowledge as to which measures best assist children and youth with special needs or they are subject to the financial prioritisations of the Danish municipalities. Many children and youth do not receive the specific assistance they require due to the fact that their particular problem and the actual assistance provided to them do not match.

47. Researchers and professional groups have long criticized these circumstances. This criticism led the Danish Government to implement reforms in 2004 with regards to the placement of children (placement reform, expected to come into effect in 2006).

48. The Reporting Group is very positive towards the content of the placement reform. Compliance with it will ensure significant improvement in relation to the treatment of children's cases in Danish municipalities. Among the requirements is that interviews with children must take place and that action plans must be drawn up. The reform will reinforce children's rights, including increased opportunity to register complaints regarding the choice of placements (for children as young as 12 years of age). Conversely, the Reporting Group finds it inexcusable that the municipal casework does not include assessments and the accumulation of knowledge concerning the results of the arrangements implemented in relation to the individual child. This renders it impossible to acquire knowledge about what is effective in the social treatment of children and youth and what actually constitutes the best interest of the child.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Will the Danish Government take initiative – and monitor – to ensure that casework proceeds systematically with thorough preliminary investigations prior to the decision regarding the measures to be taken?

⁹ E. Christensen, Anbringelser af børn, The Danish National Institute of Social Research, 1998.

2. Will the Danish Government take initiative to include assessment of the specific measures in children's cases as a permanent aspect of the procedure with regards the accumulation of knowledge about what actually constitutes the best interest of the child?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That municipal casework proceeds systematically and includes through investigations prior to the determination of the measures to be taken.
2. That knowledge is accumulated as regards effective measures for children and youth through the assessment of the measures employed in the individual cases involving children.

Respect for the views of the child, article 12

Concluding Observations/Comments 2001:

31. The Committee recommends that the State party take the necessary measures to ensure effective implementation of article 12 of the Convention, not only in court proceedings but also in various administrative decisions, including with respect to child protection services, custody proceedings and the placement of children in institutions. Moreover, the State party is urged to effectively promote and encourage respect for the views of children below the age of 12 years, according to his/her evolving capacities, and in light of article 12 of the Convention.

Respect for the views of the child in Danish law

49. The Reporting Group is aware of the increased consideration granted to the views of the child in administrative decision-making processes, particularly as involves children under the age of 12 years. This increased consideration of the views of the child is a positive development; nevertheless, the Reporting Group wishes to draw attention to the heterogeneity characterising Danish legislation with respect to interviews of children. This becomes evident in the examination presented in section IV.D concerning the respect for the views of the child in Danish legislation in Denmark's third report to the UN Children's Committee.

50. The Reporting Group points out that it is only the *weighting* of the child's statement in relation to age and maturity that the authorities are to assess. Cf. article 12 in the Convention, a child capable of expressing his/her own opinions must *always* be heard as regards the conditions of concern to the child.

51. Neglecting to hear the child on the grounds that it is assumed to be detrimental to the child (see e.g. Act no. 60 of 29. January 2003) or that it is at odds with the best interest of the child is, according to the assessment of the Reporting Group, in disaccord with articles 3 and 12.

52. The Social Services Act dictates that children must be heard in connection with social service measures; however, this does not apply to children with disabilities. It is not obligatory for them to be heard regarding the choice of aids intended to alleviate their handicap, e.g. a wheelchair, car or modifications to their residence.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Will the Danish Government take initiative to making the provisions in Danish legislation uniform in accordance with the principle stated in article 12 in the Convention?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATION TO THE DANISH GOVERNMENT:

1. A direct interview with the child must always be a high priority.

The involvement of children in the school system

53. The objects clause in the Act on the Folkeskole states, inter alia, that pupils must be made ready to grow up in a democracy; however, according to the “school investigation”¹⁰, which was conducted as a part of the “Danish Democracy and Power Study (*Magtudredningen*)”¹¹, the democracy in schools is not functioning as intended. The student councils do not have the necessary competencies to be taken seriously – not even by the pupils themselves. The school councils ought to therefore have the opportunity to actually exert influence on central aspects of their school life, e.g. in the assessment of the teaching, the appointment of representatives to the safety council, and in the implementation of new teaching forms.

54. Similarly, school pupils have no formal influence on the newly established “national centre for educational and career guidance counselling”, and in “Youth education guidance”. It is natural that pupils are granted a genuine say in the overriding prioritisations and areas that both the national centres and the local guidance centres are working with. Such a say has disappeared since the competency has shifted away from the individual institution and school to the regional and national centres.

55. The Danish Educational Environment Act came into effect in 2001. This legislation describes how pupils have the right to choose representatives to the safety committee established in the individual school. Until now, only a very limited number of schools have implemented this law and have appointed pupils to these organs. In practice, the Educational Environment Act does not work pursuant to the intention. The Educational Environment Act ought to have the same status as the Working Environment Act, which applies to the labour market.

56. Many special schools do not receive the support necessary to establish student councils and for the pupils to receive all of the support possible for them to be able to participate in the decision-making processes concerning their own conditions.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS:

1. How does the Danish Government intend to ensure that the Educational Environment Act is made concrete and implemented in the various educational institutions, including public primary and lower secondary schools?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That via specific legislation initiatives, student councils ought to receive greater influence over the conditions experienced by children and youth in primary and lower secondary schools, youth education programmes, and in special schools, e.g. by establishing the legal right of student councils to be heard in specific cases.

¹⁰ Bo Jacobsenet al., “Den vordende demokrat – en undersøgelse af demokrati og magt i Danmark, 2004.

¹¹ “Analyse af demokrati og magt i Danmark”, Folketinget, 1997”

The right to participate and express oneself, articles 12 and 13

Concluding Observations/Comments 2001:

22. The Committee notes that the State party has established a number of initiatives to facilitate the lodging of complaints by children of violations of their rights, including through the Office of the Ombudsman and a telephone hotline. However, the Committee remains concerned about the accessibility and availability of these complaint mechanisms to all children within the State party.

23. The Committee suggests that the State party take all effective measures to ensure that its independent complaint mechanisms are easily accessible to and user-friendly for all children, to deal with complaints of violations of their rights and to provide remedies for such violations. In this regard, the Committee encourages the State party to reinforce its awareness raising efforts to facilitate the effective use by children of the complaint mechanisms. While the committee notes the reluctance to establish a separate complaints mechanism for children, it encourages the State party to consider strengthening the mandate of the National Council For Children to include individual cases and complaints from children, or to establish a child rights focal point within the Office of the Ombudsman.

Children's opportunities to register complaints

57. While the authority of the ombudsman has been expanded so as also to encompass the municipal administration – and thereby also a greater part of the areas pertaining to children – (the provisions of the Social Services Act), greater transparency has yet to be achieved in terms of the means available to children to register complaints. Consequently, children are not informed of their opportunity to register complaints about decisions that affect their lives (articles 12 and 13).

58. The Reporting Group finds it important that all children have the opportunity to complain in the event their rights are not respected, and they must have access to assistance from adults to come in contact with a complaints body. More specifically, children for whom the municipality provides some kind of arrangements must be able to register complaints in relation to the decisions made. According to the current legislation, children 15 years of age and older can appeal decisions regarding compulsive measures. Younger children and children who have been placed voluntarily do not have the opportunity to appeal decisions that have significance for their lives.

59. Legislation proposed in 2004 regarding the reform of the placement procedure includes provisions that children 12 years of age and older have the opportunity to register complaints regarding the type and location of their placement. This is a step in the right direction, but it is not sufficient unto itself. In the view of the Reporting Group, children 12 years and older and those children under 12 years who are sufficiently mature ought to be included in the process and be entitled to free legal counsel, access to documents, and right to appeal. Children and youth placed outside of the home or who are otherwise subjected to municipal provisions and measures are to have a contact adult capable of informing and assisting children to register complaints or appeals in the event their rights are not respected or there is any doubt in this regard.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Which initiatives will the Danish Government take in order for children to be able to register complaints to an impartial authority over decisions affecting their own lives (article 12)?
2. Which initiatives will the Danish Government take to render the legislation clearer and more readily understood, so that it is clear in which areas and under which conditions children have the opportunity to register complaints?
3. Which initiatives will the Danish Government take in order to inform and guide children about their rights, including the right to complain over decisions affecting conditions in their own lives (articles 13 and 17)?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That children be provided with greater opportunity to register complaints.
2. That children 12 years of age and older and those under 12 who are of sufficient maturity ought to be included in the proceedings, receive right to free legal counsel, access to documents, the right to appeal etc.
3. That children are generally to be informed about their rights and where and how they are able to complain about conditions at their placement site and over the provision of welfare in their municipality.
4. That impending reforms of placement practices concerning children ought to include children's opportunities to complain over possible abuses of power.
5. That in support of the child, he/she receives a contact person who is independent of the municipality, placement institution, or others involved in the placement.

IV: CIVIL AND POLITICAL RIGHTS, ARTICLES 13, 15, AND 17

Follow-up to the UN Children's Summit – Youth Forum

60. As follow-up to the UN Children's Summit, the Danish Government and Ministry of Social Affairs decided to continue work with a so-called Youth Forum (the Danish Government report section V.C.1). This forum consists of 24 children and youth between 12 and 18 years of age that are selected by teachers and "other key persons close to the youth". The CVU developmental agency located in the Danish town of Jelling have been entrusted with responsibility for the Youth Forum.

61. The Reporting Group finds the fundamental concept behind this Youth Forum to be admirable; nevertheless, we see several problems:

1. The Youth Forum is completely unknown to the majority of the population, not least among children and youth.
2. The information available about this work is very limited, and the Youth Forum has not received sufficient exposure, e.g. on the Internet.
3. The selection of children and youth for the Youth Forum is indiscernible. The involvement of youth from associations and clubs, including handicap organizations, could be an excellent opportunity in this connection for the selection of representatives in the Youth Forum.
4. Finally, the Youth Forum merely provides advice for the Ministry, which sets out the questions with which the young people are to work with.

Follow-up to the UN Children's Summit – National action plan

62. At the UN Children's Summit in 2002 in New York, Denmark acceded to the resulting document, "*A better world for children*". This accession entails an obligation to draw up a national action plan in collaboration with private organizations and – not least – together with the children themselves.

63. "The Reporting Group on the UN Convention on the Rights of the Child in Denmark" has repeatedly – and unsuccessfully – called on the Danish Government to draw up an action plan. The Danish Government argues that several action plans have been worked out in relation to children and other government initiatives have been taken; there is therefore no need for an integrated national action plan.

64. The Reporting Group finds it reprehensible that the Danish Government does not respect this international obligation. The Reporting Group feels that the Danish Government has squandered a unique opportunity to bring both actors and children together to develop visions and priorities. This

process could have served as the beginning of an integrated children's policy based on the UN Convention on the Rights of the Child.

Youth parliament

65. Since 1999, the Danish parliament has conducted a bi-annual youth parliament, next in February 2005. Conducting a youth parliament makes good sense. In so doing, children and youth receive a sense of appreciation for the work conducted in the parliament on a daily basis. Moreover, the fact that the proposals for legislation passed by the youth parliament are subsequently addressed in the Danish parliament reflects a sense of seriousness. We regard the youth parliament as a good basis for spreading a sense of direct democratic participation to other levels in Danish society. It would be worth considering the extent to which this concept could be spread to the Danish municipalities.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. How will the Danish Government ensure that the Youth Forum becomes more prominent and is granted the opportunity to express itself in a broader manner and in relation to more issues?
2. Will the Danish Government make the Youth Forum trial permanent?
3. Does the Danish Government still not wish to follow the decision from the Children's Summit and develop a national plan of action, as the other participating are intending to do?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the Danish Government work with various models for how children and youth can attain an actual democratic voice in relation to the public debate.
2. That the Danish Government follows up on the decision made at the Children's Summit in 2002 as soon as possible and develops an integrated national action plan.

Children with hearing disability – article 13

66. The children, youth and news programming in Danish television and on the Internet remain inaccessible for the deaf, as is the case with radio programming. This serves to inhibit the participation of deaf children as well as their opportunity to receive information. This also seriously inhibits their social relations and conversations about current events.

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That all news programming and television programming aimed at children and young people ought to be interpreted for the deaf.

The right of the child to freely join associations, article 15

67. Denmark has strong traditions for supporting associations with various forms of public support. This provides these associations with unique opportunities to develop diversity and constantly involve an array of groups in the population, including children and young people. The Reporting Group is very satisfied with these support arrangements.

68. In 2004, the Minister for Refugees, Immigrants and Integration allocated the financial means necessary to support children from families receiving so-called 'integration benefit' and other children from families living on meagre financial resources. This is a good arrangement, as it provides the children from these families with an entirely unique opportunity to participate in ordinary Danish association life on equal footing with other children. As association life is an excellent catalyst for integration, it is important that association life continues to receive support. Denmark has strong traditions in this regard. These traditions can serve all groups of children and young people that could use some space and

community – also together with adults – who do not meet the children in a working relationship, but as volunteers participating in the group because they enjoy doing so. The associations offer an elementary education in democracy, appreciation of the rules for togetherness, and contribute to fundamental skills and competencies that the children can enjoy for the rest of their lives.

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the Danish Government continues to focus on the significance of associations for childhood and democratic development.
2. That the Danish Government continues to provide financial support enabling children from socially disadvantaged families, including ethnic minority children, to participate in association life and thereby reinforce integration.

The right of the child to information, article 17

69. Cf. the Danish Government report, section V.G, the Media Council has taken initiative to studies of children's use of the Internet and the impact of computer gaming on the development of children. These are to be followed up on by information campaigns aimed at teachers, children and parents, just as the Media Council has developed a set of consultative 'rules of the road' for children's use of the Internet.

70. Whether at school or at play, children are surrounded by advanced technology in the form of the Internet, email, Gameboy, Playstation games, cell phones etc. They are good at sorting through the stream of information and can distinguish between bad, useful and inconsequential information. It is therefore important to include children, when media policy is up for debate.

71. Children are aware of their own needs and would like to learn more about how the media can be used as efficiently and safely as possible. Teaching in social studies in public primary and lower secondary schools ought to be reinforced and the choice of information ought to be a central theme in this teaching.

72. The Reporting Group points out the need for deliberate and well-focused measures to ensure that children with visual disabilities and dyslexia can benefit from these media to a much greater extent, which is important for the acquisition of knowledge, the exchange of experience, and experiences together with others. The public school system ought to state requirements regarding the form of the products and accessibility.

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That children and young people receive genuine education in the use of the media, e.g. in elementary school, and that they be given opportunity to contribute to the development of this education themselves.
2. That the public school system makes demands about the form of the products and their accessibility; also for children with visual disabilities and dyslexia.

V: THE RIGHT TO FAMILY LIFE, ARTICLES 5, 18.1-2, 9-11, 19-21, 25, 27.4 AND 29

Family reunification – new rules for 15–18 year olds

Proposal for revision of the Aliens Consolidation Act and the Foreigners Act (revision of the rules about family reunification with children, restricted conditions for residence permits for religious teachers from abroad etc.). Government bill L 171 of 20. February 2004. Act no. 427 of 9. June 2004.

73. With this legislative reform, the Danish Government has restricted access to family reunification for children. The intention was to restrict the practice of ethnic minority parents sending their children for so-called ‘cultural reconditioning’ in their home country. This was to be achieved by:

- Setting the age limit for children’s right to family reunification down, from 18 to 15 years.
- A required association to Denmark that is to serve as the basis for successful integration in Denmark in those cases where one of the parents continues to reside in the home country.
- Restrictions on the right to family reunification where earlier residence permits are no longer valid – as a consequence of the child’s period of residence in the parents’ home country – in those cases where it is in the best interest of the child.
- Opportunity to report rejections of family reunification of children with regards to the best interest of the child.

74. The Reporting Group does not find that the reduction of the age limit for the right of the child to reunification from 18 to 15 years old is in accordance with article 1.

75. The Reporting Group refers to the explanatory memorandums accompanying the legislation, in which it is stated that it is to be possible in very special cases to provide residence permits to children between 15 and 18 years of age where the denial of a residence permit will not be in the best interest of the child, cf. article 3. The Reporting Group finds that there will be various situations in which consideration to article 3 entails an obligation to provide a residence permit to a child over 15 years of age, e.g. where several siblings have been separated from one another, because one of them might be over 15 years of age, or in cases where a child over 15 years of age is relatively immature or for other reasons is unable to fend for themselves without his/her parents.

Article 10 of the Children’s Convention does not provide unconditional claim to family reunification; rather, it recommends the “positive, humane and expedient processing” of applications in this regard. The Reporting Group finds that:

There ought to be an assumption that the child can be reunified with his/ her family, for which reason applications for family reunification ought to be denied only in special circumstances. The existing legislation builds on the opposite assumption in several cases:

- Family reunification of children over 15 years of age.
- Children over nine years of age when the application is made more than two years after the conditions for family reunification are fulfilled.
- When children who have lost their basis for residence with reference to section 17 due to periods of residence in the parent’s home country for “cultural reconditioning”, make a new application for family reunification.

Alvaro Gil-Robles, Commissioner for Human Rights for the European Council, has issued the following comments:

“The Commissioner for Human Rights states, that even though the UN Convention on the Rights of the Child does not state that children under 18 years of age are automatically to have access to family reunification to the parents’ country of residence, the Convention assumes that the child receives the opportunity to do so. The Commissioner for Human Rights finds ... it to be unreasonable and inadvisable to introduce a new general rule of assumption that the family reunification of a child between 15-17 years of age is not in the best interest of the child and to allow the exceptions, where in special cases family reunification is to be permitted, be indicated in the explanatory memorandums to the legislation. This does not lead to the rule of law, which ought to be the case in the establishment of fundamental rights.”

The Danish Government has responded with the following comments

“It must be emphasized that children between 15 and 18 years of age are not prohibited from applying for family reunification. The immigration authorities process all applications for family reunification concerning children. Setting the age limit down from 18 to 15 years merely entails that children between 15 and 18 years of age do not have a legal claim to family reunification. The rule does not indicate any ban on residence permits for these children. Moreover, it is clearly stated in the explanatory memorandums to the legislation that residence permits are to be extended in those cases where the denial of family reunification would be at odds with Denmark’s international obligations. The Danish Government does not find that there is any basis to reform the provision.”¹²

76. The Reporting Group finds it positive that the legislation calls for increased attention surrounding the obligation of the administration to allow the consideration of the best interest of the child be the first priority in all measures concerning the child.

77. It is good that the Danish government is aware of the problem with forced so-called “cultural reconditioning” in the parents’ home country. The Reporting Group finds, however, that this question must be dealt with carefully. Visiting the home country can also have positive aspects, because the child/youth learns more about the language and culture of their parents’ home country. However, the Reporting Group is worried that a number of children possibly find themselves in their parents’ home country against their own will.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Will the Danish Government ensure that children between 15 and 18 years of age receive the right to a residence permit/family reunification cf. article 3?
2. Will the Danish Government take initiatives to cast light on relations regarding so-called ‘cultural reconditioning’ in the family’s home country?
3. Which initiatives will the Danish Government take in relation to children who find themselves in their parents’ home country against their will?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That children between 15-18 years of age are assured the right to family reunification.
2. That the spreading and effect of relatively forced so-called ‘cultural reconditioning’ and voluntary visits to the parents’ home country ought to be examined more closely before restrictions are legislated on the current background in terms of issuing residence permits.

¹² Report by Alvaro Gil-Robles, Human Rights Commissioner for the European Council, issued 8. July 2004 and accessible at: <http://www.inm.dk/imagesUpload/dokument/CommDH2004DenmarkReport.pdf>

The Danish Government memorandum about the report issued on 8. July 2004 by Alvaro Gil-Robles, Human Rights Commissioner for the European Council. The aspects of the report touching upon immigration are accessible at: http://www.inm.dk/imagesUpload/dokument/Notat_om_rapport_fra_Europaraadets_menneskerettighedskommissaer.pdf, English version: http://www.inm.dk/imagesUpload/dokument/Memorandum_of_the_report_of_8_July_2004.pdf
The comments issued by the Commissioner and the Danish Government are quoted from The Danish Government memorandum, pp. 15-16.

3. That the Danish Government implements measures aimed at children who are in their parents' home country against their will, e.g. through the involvement of Danish representatives searching for and identifying children in high risk areas and otherwise retrieving information about the extent of the problem.

Reunification of children and spouses, article 18.1

Proposed amendments to the Government bill about the revision of the Immigration Act and the Marriage and Family Act with more laws (Abolishing the de facto-refugee concept, making asylum application casework more efficient, more rigorous conditions for the provision of permanent residence permits and tightening the conditions for family reunification etc.). Government bill L 152 of 28. February 2002. Act no. 365 of 6. June 2002

78. The Danish Government has raised the age requirement in connection with the reunification of spouses from 18 to 24 years. This means that residence permits are only granted on the basis of marriage or permanent cohabitation in the event that both parties are over 24 years of age. In certain cases, there are special circumstances meaning that permission must be granted to family reunification of spouses in Denmark, even though the involved persons do not fulfil the condition that both are to be over 24 years of age. Administrative practice has developed whereby consideration is not automatically granted to the common children or *særbørn* of the referee or applicant. The reason for doing so is that it is assumed that the couple can take their common children and *særbørn* with them to a country other than Denmark. These conditions unto themselves do not therefore constitute any right to a claim for a residence permit for an applying spouse.

79. The assessment of the Reporting Group is that in addition to being a consideration that can be included in connection with assessment of the association requirement, consideration of the needs of children residing in Denmark provides further grounds for deviating from the association requirement. In the explanatory memorandums to the legislation, however, consideration to children is not named as an example of a special reason that can lead to making an exception from the association requirement. As is the case with the assessment of the association to Denmark, the consideration to the applicant's and referee's common children residing in Denmark are also excluded.

80. The administrative practice in which consideration granted in connection with children, other than *særbørn*, can violate the child's right to a family life. The Reporting Group finds that the right to family life ought to be interpreted in light of article 3, such that both the consideration to the applicant's and referee's children living in Denmark and *særbørn* are included in the assessment of whether exception should be made from the normal procedure for the reunification of spouses.

81. The Reporting Group finds it to be troubling that the authority to make estimates is largely left to the immigration authorities, and it is expected to be administrated in accordance with international obligations.

82. The Reporting Group finds it problematic that international obligations are not directly implemented in the law and that there is a certain degree of risk associated with merely naming the international obligations in the explanatory memorandums to the legislation¹³.

¹³ The Danish Institute for Human Rights has written a comprehensive analysis of the protection of the right to a family life and from discrimination on the basis of human rights (*Egtefællesammenføring i Danmark*). This account goes through the rules of the Immigration Act concerning the reunification of spouses. See <http://www.humanrights.dk/nyheder/nyudredning/udredningredirect/>

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. In connection with the reunification of spouses, how will the Danish Government ensure the granting of consideration to children and sørbørn living in Denmark?
2. Will the Danish Government write into the law that consideration granted to children and sørbørn constitutes special circumstance sufficient to make exception to the association requirement?
3. Will the Danish Government reform practice, thereby bringing it in accord with international obligations and the right of the child to family life cf. articles 3 and 10?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That international obligations be stated explicitly in the legal text.

Violence against children, article 19

83. On average, eight children in Denmark under 15 years of age die as a consequence of violence or another form of neglect on an annual basis. The exact number of children exposed to violence in the home is difficult to estimate, as many cases presumably never come to the awareness of the authorities¹⁴.

84. Denmark places in the worst half of the industrialized nations in terms of child deaths resulting from violence¹⁵.

85. In 2004, the Ministry of Social Affairs developed an action plan regarding child abuse. It includes a campaign about information in which it is emphasized that guidelines are to be developed for dealing with cases involving child abuse. Moreover, the multi-disciplinary efforts in the municipalities must be reinforced. The Reporting Group is in agreement with these initiatives and regards them as a very necessary contribution to bringing the abuse of children to an end (article 19).

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. How will the Danish Government assess and evaluate whether the action plan has an effect on the reduction of the number of cases involving child abuse?
2. What is the timeframe and which follow-up methods will be utilized?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the Danish Government takes initiative to the establishment of a central registry for reports about violence against children that can form the foundation for increased knowledge and focused measures against child-abuse.
2. That professionals reinforce their competencies in relation to the early detection and treatment of cases involving child-abuse.
3. That external experts can provide support to the municipalities that do not have a well-functioning multi-disciplinary team and which are not trained to deal with child-abuse cases, e.g. a mobil unit.
4. That children are provided with opportunities to seek assistance, e.g. via telephone counselling (“the Children’s Telephone”) and open, anonymous counselling.
5. That the schools are dictated to employ curricula and teaching guidelines to inform school pupils.

¹⁴ Legislation was passed abolishing parents’ right to strike their children in 1997.

¹⁵ “A League Table Of Child Maltreatment Deaths in Rich Nations”, UNICEF, 2003.

Violence against children in the schools, article 19

86. The Reporting Group finds that there is a need for rules about the use of force in remedial teaching. Handicap organizations have called the attention of the Minister of Education to this problem repeatedly; in response, reference has merely been made to an inadequate and unspecific set of rules. Most recently, two teachers were acquitted in the Danish courts in a case where they had taped a deaf and autistic child's mouth shut on the grounds that he continued to scream. The Reporting Group finds that the use of force ought not to be permitted. However, as the use of force can be rendered necessary to prevent a child from harming herself or others, the rules for the use of force must cover the exceptions that are about safety and protection. Clear rules and awareness on this area are required.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Will the Danish Government develop rules for the use of force regarding children with disabilities, such that awareness is raised as to what is right and wrong as well as ensure that the drawing up of reports on the area becomes more uniform?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the teachers in primary and lower secondary schools and higher education levels must acquire increased knowledge and awareness about pupils with disabilities who act out, such that they are able to focus more on finding pedagogical solutions.
2. That the teachers ought to be offered supervision
3. All forms of the use of force must be explained and reported.

VI: HEALTH AND WELFARE, ARTICLES 6, 18.3, 23-26, 27.1+3

Concluding Observations/Comments 2001

36. While noting the efforts of the State party, the Committee remains concerned about the health problems faced by adolescents, particularly the high incidents of eating disorders, especially among teenage girls, drug, alcohol and tobacco abuse, and suicide.

37. The Committee recommends that the State party reinforce its efforts to address the adolescent physical and mental health concerns through, inter alia, preventive education, counselling and rehabilitative programs to strengthen self-confidence among young people and prevent behaviour that could negatively affect their health.

Overweight children

87. Overweight and obesity among children in Denmark has become a dramatically increasing problem. Cf. the Danish Nutrition Council, this has acquired the character of an epidemic. Problems with overweight and obesity among children and young people have tripled over the last 30 years. It is hardly surprising that the Danish Nutrition Council and the National Board of Health point to inadequate exercise and unhealthy eating habits as the cause. The Reporting Group is worried for these children and young people. Overweight children and young people are generally plagued by teasing, loneliness, and poor self-worth. Moreover, they suffer the risks of poor health arising from the well-known life-style diseases.

88. The Danish Nutrition Council and the National Board of Health make several recommendations that the Reporting Group concurs with:

- Lower VAT on healthy foodstuffs.
- More exercise and healthy food in childcare institutions and schools.
- A ban on soft drink and candy machines in schools.
- A ban on television advertisements for unhealthy foodstuffs aimed at children.

- More information campaigns and significantly more research about the prevention of obesity.¹⁶

89. The Danish Government has ignored many of these recommendations. Moreover, in 2002 it did away with a pool, the “children’s food/diet pool” (*Børnekostpuljen*), which was replaced by a project entitled “Everything about food” (*Alt om Kost*), which unfortunately has not proven to be a success.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Which initiatives will the Danish Government take in order to stop increasing obesity among Danish children and young people?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. The recommendations made by The Danish Nutrition Council and the National Board of Health ought to be carried out.

Alcohol among children and young people, articles 18.3, 24,2e

90. The Danish Government has reduced the taxes on liquor, providing children and young people with increased capacity to purchase and consume alcohol.

91. While alcohol consumption among children and young people in Denmark has generally fallen in recent years¹⁷, the Reporting Group is deeply concerned about a marked increase in alcohol consumption among 13-16 year-old school pupils (7th to 9th form levels). In the Danish Government report to the Committee (VII.B), reference is made to the National Board of Health having initiated alcohol campaigns. However, it is not indicated which initiatives are to be taken to make a difference in the alcohol consumption of young people. The annual Danish alcohol campaign, “Week 40” is far from sufficient.

Children with psychological ailments, articles 3 and 24

92. More than 500 children are annually admitted to adult psychiatric wards, and this figure is on the rise. Many mentally ill children must wait far too long for tests and treatment on account of the lack of room for admissions in paediatric psychiatric wards. This is frightening for the children and is in discord with articles 3 and 24. The Reporting Group sees a need for the immediate implementation of a national development plan, which the Danish Government has allocated resources for in the Budget for 2005.

Traumatized refugee children, articles 3, 22 and 24

93. The Reporting Group is aware that asylum-seeking children reside in special centres for children. A psychologist is associated, but otherwise there is almost no support or treatment offered to traumatized asylum-seeking children in the asylum-application phase. The incidence of traumatic experiences can have consequences for the child’s development as well as opportunities for presenting their case in the treatment of their application for asylum. Traumatic experiences can lead to neurophysiological changes, which can have an impact on brain functions and lead to developmental disturbances. This can affect the child’s memory, ability to recount experiences etc., and therefore ought to be included in the authorities’ assessment of whether the child is sufficiently mature to undergo the asylum application procedure. There is insufficient attention regarding the traumatization of the child in the integration phase. The treatment offered is primarily directed at the parents. In particular, children whose parents

¹⁶ “Oplæg til national handlingsplan mod svær overvægt”, The National Board of Health, 2003 and “Den danske fedmeepidemi – oplæg til en forebyggelsesindsats”, The Danish Nutrition Council, 2003.

¹⁷ HBSC-Health Behaviour in School Class-aged Children, 02. School pupil study and The National Board of Health, 07.04.

have been exposed to torture have developed an array of psychological symptoms to the detriment of their schooling, positive development and well-being.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Which initiatives will the Danish Government take to prevent children from being admitted to adult psychiatric wards to reduce waiting times for support and treatment, and what is the time-frame?
2. Which measures will the Danish Government implement to help traumatized refugee children?
3. How will the Danish Government ensure that the Danish Immigration Service includes possible developmental disturbances in the assessment of maturity, i.e. whether a minor is capable of undergoing the asylum application procedure?

Health and children with disabilities, articles 23 and 24

94. Children with disabilities often encounter problems with attaining the necessary generally oriented treatment on an everyday basis. The law includes many explanatory mandates regarding what can be done in several sectors instead of what must be done. As the poor treatment of children with disabilities, can proceed in several different sectors a lack of clarity results in relation to the overall picture and the responsibility for treatment. In the case of disagreements over responsibility for solving a given task, there is no body of authority to determine who is to provide the assistance. The Social Appeals Board can make assessments as to who ought to provide support, but it does not have the authority to determine which sector is to support the child; this situation contributes to the avoidance of responsibility that is to the detriment of the child.

Social services and facilities for children with disabilities in childcare

95. Children with disabilities are to be integrated in ordinary childcare schemes as much as possible. Only in those cases where the municipal childcare schemes cannot satisfy the child's special needs for support and treatment is the child to be provided with a special childcare arrangement. As very few municipalities have a policy for children with disabilities, unfortunately it is usually a matter of where there is room rather than where the child is best placed (the principle of the best interest of the child, article 3, is not respected).

96. There is a general need for establishing flexible personal support schemes, e.g. where the child/youth has an integrated scheme and is not tied by having to stay in certain places on the grounds that the support person must remain in the institution. The support arrangement and assistance for escorting must ensure that the child is on equal footing with other children who are able to leave their home and participate in activities without the participation of their parents.

The genital mutilation of girls and young women, article 24

97. New Danish legislation¹⁸ renders it possible to punish Danish citizens and persons residing in Denmark who, while abroad, conduct or contribute to the mutilation of the outer genitalia, even though the act in question is not punishable according to the law of the country in which it is committed.

98. This legislation establishes that consent cannot be given to female genital mutilation – neither by the girl herself nor by her parents, i.e. the violating act cannot be committed with impunity. The provision includes all forms of female genital mutilation.

99. The genital mutilation of girls and women is a tradition-bound ritual that violates the physical integrity of the girl or woman in question under forms that are in conflict with the fundamental demand of

¹⁸ Act no. 386 of 28. May 2003 (the criminal code)

human rights regarding respect for dignity. Legislation that increases the protection of girls and women against circumcision cf. article 24.3 is therefore welcome.

100. The Reporting Group calls for attention to be directed in the future towards children who become involved in legal proceedings¹⁹ against their parents or other close persons, and who are not 18 years of age at the time of the investigation and/or the date when charges are laid. These are children/young women who must be able to withstand:

- an investigation which itself can be experienced as a violation of one's integrity, given the circumstances;
- a criminal case against her parents or other close persons,
- separation from her parents and the temporary breaking-up of her family in the event of conviction.

101. Reports to the authorities about circumcision can have extensive social consequences, both for the girl and her entire family, e.g. that they are expelled from their social or cultural groups. The serious nature of this violating act is particularly, in the view of the Reporting Group, in those cases in which the authorities, on the background of their obligation to report, intervene in cases with suspicion that circumcision has taken place or is being planned, thereafter initiating an investigation and a police report. In these instances, it is imperative for the girl or young woman that consideration of the best interest of the child is included in the proportionality assessment (articles 3 and 12).

102. The Reporting Group wishes to draw attention to the fact that the personal demarcation (in terms of gender) of this provision prevents boys/young men who belong to societal groups, which for cultural, religious or other reasons engage in genital mutilation, from submitting reports about the act, which either unto itself – or the derived consequences of which – can be experienced as a violation of one's integrity.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Will the Danish Government utilize legislation and guidelines to ensure the best interest of the child and involve girls and young women less than 18 years of age in connection with reports (articles 3 and 12)?
2. Will the Danish Government formulate legal texts in a gender-neutral language, such that the mutilation of genitalia without consent is criminalized both with respects to girls/young women and boys/young men (article 24.3)?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That this legislation is formulated in such a manner so as to ensure the best interest of the child and their involvement in investigations and reports in cases concerning the mutilation of genitalia.
2. That the provisions in the legislation are formulated in a gender-neutral manner such that it criminalizes any act consisting of the mutilation of genitalia without consent, regardless of gender.

Children, poverty and social exclusion, article 27,1+2+3

103. There are children in Denmark in families with such meagre financial means that there is talk of poverty in the Danish context (Denmark has no official poverty line). For example, it is poverty when a family's income is so limited that the children are unable to receive a sufficiently healthy and varied diet, proper clothing, experiences similar to those of other children, and they are unable to enjoy trips and vacations with their parents. Children lacking opportunity to participate in a comprehensively stimulat-

¹⁹ so-called section 245 cases (the criminal code)

ing childhood with recreational activities, experiences and friends risk social exclusion that can lead to life-long consequences. The concept of poverty in Denmark has not been in focus in the recent past and has not been debated sufficiently. For this reason, there is an absence of measures aimed at minimizing such consequences for children, meaning that Denmark does not fully respect article 27.2.

The national Danish action plan for the prevention of poverty and social exclusion

104. The Reporting Group finds it positive that the Danish Government has developed an action plan for the prevention of poverty and social exclusion and that this action plan includes a section concerning children and youth with special needs in which the solutions to various types of problems are described. The socially disadvantagedness of the action plan is that it was drawn up without the necessary knowledge of the mechanisms leading to, in particular, life-long poverty and the consequences for children.

105. In light of the general lack of knowledge regarding what it means for the well-being and development of children when their childhood is marked by a deprived existence, a far more reflexive action plan is called for in which these conditions are investigated and described. Moreover, there is a lack of research capable of providing overall knowledge regarding the consequences for children when families are struck by several of the problem types that can create poverty. Without such reflection and concrete knowledge, the action plan does not represent a usable instrument capable of alleviating child poverty, and Denmark will remain unable to sufficiently respect article 27.2.

106. A study conducted in 2003²⁰ documents that approximately 17 percent, i.e. roughly 200,000 children – for brief or extended periods of time – are touched by at least one of the three indicators used to indicate poverty (welfare poverty, implicit poverty and relative poverty). This study also indicates that the children of ethnic minorities suffer the most from poverty in Denmark.

107. The Danish Government has rejected the findings of this study, referring instead to their own investigation (Finansministeriet 06.04), in which it was concluded that 39,000 children, corresponding to approximately three percent of all children under 18 years of age, live in families with a disposable income less than 50 percent of the median income.

108. The Reporting Group finds it reprehensible that the Danish Government leads the debate concerning children living in Danish families with material poverty over to a question about quantity instead of illuminating the consequences for children of living in families with limited financial means. It is alarming that politicians are satisfied with the investigation carried out by the Danish Government, which indicates that the share of children in the low-income group is significantly less than in the majority of OECD-countries. This has no meaning for children who compare themselves with their friends.

109. In a follow-up study conducted in 2004²¹, children have been interviewed regarding their perception of having less money than other children. This study reveals that children attempt to maintain an external façade, but suffer deprivation in relation to e.g. ordinary recreational activities and vacations and other experiences together with their parents. Ethnic minority children are cf. the study the hardest hit by poverty.

110. The Reporting Group therefore finds it positive that funding has been set aside in the Danish Budget for 2005 to better enable participation in sports clubs for these children and young people by

²⁰In 2003 The Danish National Institute of Social Research carried out a study for Save the Children Denmark about child poverty in Danish municipalities.

²¹ *Bornefattigdom i Danmark 2002* and *Færre penge end andre børn*. Both carried out by The Danish National Institute of Social Research for Save the Children Denmark, 2004.

offering free participation to the most socially vulnerable children and youth in the local communities; however, the Reporting Group would like to see this support further extended so as also to include other recreational activities, thereby providing the children from materially deprived families with the same recreational opportunities as their friends.

111. An overall children's policy and differentiated measures are required to ensure that children in families with limited financial means receive the same opportunities to do well and develop competencies as other children.

'Start help'

112. People hailing from countries outside of the Nordic region and the EU who have travelled to Denmark without the means necessary to provide for themselves receive so-called 'start help' if they have resided in Denmark for less than seven years. This amounts to far less than the welfare benefit that others residing in Denmark receive if they are unable to provide for themselves. Welfare is the lowest public benefit and is regarded as being the least amount upon which one can maintain a reasonable standard of living. The start help, also commonly referred to as 'the integration benefit', therefore contributes to placing these families in a social situation with extremely negative consequences for children, as these children are prevented from enjoying childhood conditions that bear any semblance to those of their friends.

113. The Reporting Group regards 'start help' as being far too small and further regards it as representing the differential treatment of children cf. article 2.1. It is not in accord with the best interest of the child, cf. articles 3.1, 3.2, and 3.3. The well-being and positive development of these children are threatened (article 6). Furthermore, the 'start help' does not respect articles 27.1, 27.2 and 27.3.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. How does the Danish Government ensure that new legislation and the regulation of benefits affecting adults do not attain negative consequences for the standard of living of children and therein their well-being and development?
2. Which compensatory support measures are to be implemented for children and young people individually and generally in local communities, where the majority of the population has scarce means?
3. Will the Danish Government ensure that children living in families on start help are provided with a standard of living in accordance with the national norms, cf. article 27.2?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That consequence analyses are conducted for children in connection with the drafting of new legislation and in connection with financial intervention in various contexts, including the labour market.
2. That children from socially disadvantaged families ought to receive special treatment, e.g. in the form of special arrangements for children in local communities with many socially disadvantaged families.
3. That start help ought to be replaced by ordinary welfare benefits.
4. That the consequences for children of living in poverty are documented through further research that forms the basis for goal-directed efforts.

VII: EDUCATIONAL, RECREATIONAL AND CULTURAL ACTIVITIES ARTICLES 28 AND 29

Socially disadvantaged pupils in the Danish primary and lower secondary school

114. Children experiencing problems upon beginning school often must wait too long for offers of support, e.g. through the municipalities' *Pedagogical-Psychological Counselling*, this has consequences for the well-being and learning of these children. The Reporting Group finds this to be in conflict with articles 3 and 28.

115. The Reporting Group does not feel that the previous measures with remedial instruction in schools compensates sufficiently. The support is provided too late, which has consequences for these children for the rest of their schooling (article 29(a)). A study conducted by UNICEF²² that compares the academic achievements of pupils from several countries indicates that Denmark ranks as the twentieth of the 24 OECD countries. It is therefore appalling that the Danish Government report to the Committee does not describe the areas that the Danish Government intends to improve to improve elementary schools in Denmark.

116. With regards so-called 'bilingual' (*tosprogede*) pupils, i.e. ethnic minority children from families in which a language other than Danish is spoken in the home, there is broad agreement that this group of pupils ought to be supported throughout their entire course of schooling. The Danish primary and lower secondary school system regards this to be a part of an overall integration policy²³, which the Danish Government has yet to take sufficient initiatives for.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. How will the Danish Government further qualify preventive measures in the school area, enabling children with special needs to receive professional assistance as soon as possible?
2. How will the Danish Government reinforce teachers' pedagogical and professional competencies, thereby ensuring that teaching is to the benefit from learning processes of strong and socially disadvantaged pupils alike?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the education programmes for teachers, social education workers and childcare workers ought to be improved with regards the professional groups being rendered better able to detect children with needs for preventive measures and other efforts aimed at successful schooling.
2. That assessment tools be developed for use in teaching in the elementary school system.

The public primary and lower secondary school system and ethnic minority children and youth

117. Danish municipalities are no longer obligated to provide free mother-tongue language instruction to ethnic minority children.²⁴ The Danish Government has argued, inter alia, that this teaching does not promote proficiency in Danish. In certain municipalities, user fees are now charged for such language instruction. Moreover, participation in pre-school language instruction is now obligatory for the so-called 'bilingual' children if their Danish is not satisfactory at the age of three years.²⁵ Finally, subsequent to finding this practice to be in conflict with the Danish Act on the Folkeskole, the Danish Gov-

²² "A league Table of Educational Disadvantage in Rich Nations", November 2002.

²³ The response of the Danish elementary school system to the OECD recommendations.

²⁴ Act no. 412 of 6. June 2002, L 142. Government bill for revision of the Act on the Folkeskole and the act on free elementary schools and private schools etc. (mother tongue teaching and language stimulation).

²⁵ Act no. 477 of 9. June 2004 (L 194, Government bill for revision of the Act on the Folkeskole, obligatory language stimulation of children from families in which Danish is not spoken in the home, who have not yet started in elementary school).

ernment has announced its intention to legalize this so-called “Albertslund model”, meaning that it will become possible to spread the ethnic minority pupils, whose proficiency in Danish is to be tested, meaning that they risk losing their present right to attend their local elementary school. In this case, ethnic Danish pupils ought to be tested in like manner, as children in this group can also require special arrangements for the development and improvement of their proficiency in Danish.

Access to teaching environments for children with disabilities, article 29

118. In Denmark, the principle of nearness is a declared goal in relation to the solution of tasks. This also applies in relation to the teaching of children with disabilities. Less than 10 percent of Danish public primary and lower secondary schools are accessible for people with disabilities, so in practice, the principle of nearness does not apply to these children. They must settle for attending school in the closest accessible school. When asked to respond, the Ministry of Education refers to the renovation of the Danish public elementary schools as being a municipal responsibility. The municipalities, on the other hand, assert that they are unable to fulfil this task under the present economic framework, which has been set by the central administration.

Objectives with education and children’s environments, article 29

119. The State party has the overriding responsibility for the education of children and young people, which is intended to develop their opportunities in relation to personality, abilities and psychological and physical capacities. The school is to be ‘child-friendly’ and grant consideration to the best interest of the child.

120. It is therefore disgraceful that many Danish children and young people experience an everyday life in a worn-out and poorly heated physical environment, inferior chairs and tables, poor and dangerous playgrounds, low-quality – if any – school canteen arrangements, disgusting toilets, old books and often a poor psychological environment.

The Reporting Group does not understand the grounds for making a distinction between children and adults? Why is there no environmental legislation for children aimed at ensuring proper physical and psychological conditions for children and youth in schools and childcare institutions when we have corresponding working environment legislation to protect adults?

121. Denmark only has one education environment act, which unfortunately does not fulfil the aim it is intended to, e.g. the legislation does not allow for possible sanctions. Calculations made by the Danish Centre for Educational Environment (DCUM) indicate that of the 42% of the schools and educational institutions in Denmark that are encompassed by the educational environment act and responded to the DCUM study, only one-third have conducted the educational environment assessment required by law. This reveals that the current legislation is insufficient to ensure a good environment for all children in Danish schools. It is critical that childcare institutions are not encompassed by this legislation as a bare minimum.

Objectives for education and children with disabilities

122. Children in Denmark must receive teaching. Parents can choose whether their children are to attend a public or private school, or whether they would rather teach their children at home. The same choices apply to children with disabilities. Unfortunately, the clarification of the special needs of these children is often a slow process. In practice, this means that children with special needs can go without opportunities for teaching or childcare. In some instances, there are no opportunities at all. The Reporting Group does not feel that these conditions for children with disabilities meet the quality requirements. Moreover, the quality of teaching and recreational opportunities offered to these children cannot compare to that which other children receive.

123. The Reporting Group is critical about the delays – and subsequently inferior teaching offered to children who are unable to receive ordinary teaching on account of lengthy or frequently returning pe-

riods of illness or pain.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Why does the Danish Government permit a poor daily environment for children when it does not do so for adults?
2. Why is there no child environment legislation when there is environmental legislation regulating the physical and psychological working environment for adults?
3. Will the Danish Government develop legislation (Child Environment Act), ensuring proper physical and psychological conditions for children and youth in schools and childcare institutions and ensure access for people with disabilities to all Danish schools?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the Danish Government ought to draft a child environment act that – as in the case of the adult population – obligates the state and municipalities to ensure a good environment for children and youth, as well as access for people with disabilities.

VIII: SPECIAL PROTECTIVE MEASURES, ARTICLES 22, 30, 32-35, 37B-D, 38 AND 40

Physical and psychological healing and reintegration, articles 22 and 39

124. The Reporting Group regards it as unacceptable that the children of applicants for asylum with and without disabilities live in reception centres with very little room and with very few recreational opportunities. This is simply not a life that supports a healthy development. To the contrary, this situation can provoke life-long mental health problems.

125. Many ethnic minority children in Denmark become regarded as maladjusted and fall into a life marked by crime and violence. Some of these children and youth display maladjusted behaviours resulting from a diagnosable ailment; however, instead of receiving a diagnosis and subsequent support, these children and youth are placed in the criminal detention system.

Protection from sexual assault, article 34

Concluding Observations/Comments 2001

42. The Committee is aware of the efforts of the State party to prevent and combat sexual abuse and exploitation, including the recent establishment of an information collection system on sexual abuse. The Committee is concerned about the lack of awareness about child abuse and exploitation and the inadequate efforts to address child pornography. The Committee also notes the need for training for professionals working with and for child victims of abuse, including police officers, lawyers and social workers.

43. In light of article 34 and other related articles of the convention, the Committee recommends that the State party reinforce its efforts to strengthen current policies and measures, including care and rehabilitation, to prevent and combat these phenomena. The Committee recommends that the State party take all appropriate measures to introduce and/or reinforce training for professionals working with and for child victims of abuse and exploitation.

The accounting of cases of sexual abuse of children

126. The Danish Government continues to recommend that statements be received from children at police stations, despite calls from children's rights organizations and treatment centres that these interviews should take place in surroundings that the child is familiar with or in a 'children's house' established for this very purpose. Research indicates that children risk further traumatization in their en-

counter with the authorities (the legal system)²⁶. Persons with expertise in child-development and psychology should therefore take statements from children. A 'children's house' must include facilities and professionals with competencies so that interviews, treatment and the investigation of cases can proceed within the same building. Moreover, there must also be opportunity for acute admissions in cases involving suspicions of incest.²⁷

127. Cases examined by State University Hospital (Rigshospitalet) in Copenhagen (involving 420 children) indicate that physicians, police and the social authorities possess limited experience with dealing with the sexual violation of children. Rigshospitalet emphasizes the problematic circumstance that even in the case of actual rape, there is not always medical evidence that can be used in court. In practice, this means that children risk being placed in the custody of a parent (father), even though there has possibly been talk of assault. The Reporting Group finds this troubling. It is therefore crucial that closer examinations and risk assessments be conducted, particularly in custody cases in which one of the parents are under suspicion for having committed incest.

Parental contact in connection with sexual assault, articles 3, 12 and 34

128. Studies undertaken in Denmark and abroad indicate that a large proportion of the sexual assaults against children are committed within the family. Children 0-5 years of age are particularly vulnerable to sexual assault, as the abuse can proceed over long periods of time, partly on account of insufficient knowledge and recognition of children as informants.

129. The Reporting Group is aware of parents and children who indicate that custody ought to be maintained, even though the child opposes the time together on account of assault committed by the parent in question. The Reporting Group finds this worrisome; however, there is a lack of specific research of custody practice in cases where one of the parents are suspected for having committed incest.

130. The Reporting Group is aware that it is complicated to balance the child's human rights (including their right to protection) and the rights of the suspect. The complexity of these cases and the lack of knowledge and recognition of children as informants renders it even more necessary that experiences be collected and studies conducted of how these cases can be determined in the best interest of the child.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. What are the grounds for interviewing children in police stations?
2. Will the Danish Government examine custodial practices in cases where suspicions of incest are raised?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That a children's house be established for acute admissions, the examination of cases, and the treatment and interviewing of children in the event of suspicions of sexual abuse. Children ought to be interviewed by personnel with knowledge regarding the behaviour of children and their means of communicating.

²⁶ *Child Abuse and Adult Justice*, Save the Children, 2002. *Mod en optimal model for afhøring af børn*, The National Council for Children, Save the Children Denmark and the Joint Council for Child Issues (*Børnesagens Fællesråd*), 2002. *Når omsorg bliver til overgreb*, Mimi Strange, *Psykolog Nyt* 23/98.

²⁷ For more information, see "*Mod en optimal model for afhøring af børn i sager om seksuel misbrug*". The Joint Council for Child Issues, The National Council for Children and Save the Children Denmark, 2001.

2. Children's wishes regarding custody ought to be heard and respected; in the event of grounded suspicions regarding sexual abuse, custody is to proceed under the supervision of someone with expertise in children in the event that custody is to be maintained.
3. The Danish Government ought to implement studies of the authorities' custodial practices in cases in which suspicions concerning incest are raised.

Insufficient documentation and research

131. In legal proceedings concerning sexual crimes against children, there are statistics available concerning the passing of judgments. In Denmark, however, a comprehensive national reporting system has yet to be established.

Out of consideration to research and the education of personnel, the Reporting Group calls for the establishment of a centre for the accumulation and communication of knowledge in which all of the relevant bodies, including social services, health authorities, police and treatment centres report cases involving violence and sexual assault against children.

132. The Danish Government has drawn up an action plan²⁸; nevertheless, knowledge among professionals remains insufficient as to how the detrimental effects and other problems in connection with sexual assault on children are best dealt with. There are insufficient plans for specific preventive programmes, targeting assessment and treatment to children and youth as well as to adults who are sexual abusers.

133. The Danish Government is working on proposed legislation that will make it obligatory to obtain criminal records regarding sexual crimes for all adults working with children. The Reporting Group is positive towards this initiative, but does not find that it is sufficient. This merely represents a single element in the greater pre-emptive efforts. Education and information about assault abuse remains lacking.

134. The Reporting Group is positive in relation to the action plan, but does not find that it goes far enough. For example, the action plan includes a call to the Danish municipalities to ensure professional and multidisciplinary collaboration in cases involving sexual assault, but raises no obligatory requirements about implementing preventive and therapeutic measures in this area. Less than half of the Danish municipalities have no body or multidisciplinary teams with expertise concerning the sexual abuse of children. Many cases regarding sexually abused children are dealt with unprofessionally. Treatment and counselling for young people and adults with a sexual interest in children is most urgent.

135. Themes concerning the sexual abuse of children have yet to be included in the curriculum for the relevant courses of education, which the Reporting Group calls for.

Children with disabilities

136. As children with disabilities are a particularly vulnerable group, the Reporting Group finds it to be of decisive significance that initiative is taken for the prevention of sexual abuse directed specifically towards children with disabilities. Despite positive announcements made in the past by the former Social Minister, there have yet to be taken any such initiatives aimed at examining these conditions more closely or for implementing preventive measures.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. How does the Danish Government ensure that the declarations of intent included in the action plan issued in 2003 are implemented and complied with in the Danish municipalities?

²⁸ *Regeringens handlingsplan om bekæmpelse af seksuelt misbrug*, August 2003

2. When will the Danish Government issue executive orders rendering education regarding violence and sexual assault against children as obligatory in all of the relevant educational programmes?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That municipalities in Denmark are directed to allocate the necessary resources to ensure all children in Denmark expedient and professional measures in the event of suspicions and specific knowledge of sexual abuse.
2. That education about violence and sexual assault against children becomes obligatory in all relevant educational programmes.
3. That children are taught in how adults can act in a violating or abusive manner.
4. That the Danish Government takes initiative to the prevention of the sexual abuse of children with disabilities.
5. That the Danish Government ensures the establishment of nationwide comprehensive assessment and treatment for young and adult abusers as a preventive measure.

Commercial sexual exploitation of children

137. The Danish Government has not lived up to the obligations passed at the world congresses at Stockholm in 1996 and Yokohama in 2001 regarding the development of a national action plan regarding the commercial sexual exploitation of children. The Reporting Group is extremely concerned that the production of images representing sexual abuse continues on a grand scale and that violent pornography involving children is becoming increasingly more bizarre. In addition the images of “child erotica” on the internet that violate and exploit the children involved continues to rise.

138. Children are encouraged and manipulated to provide sexual services via on-line communication. Solved cases reveal that many young victims have met their abusers in chatrooms on the Internet.

139. According to the criminal code in Denmark, sexual abuse against children represents a criminal offence. According to section 21 of the Danish criminal code, actions aimed at aiding or abetting the committing of a crime are punishable. The Reporting Group feels that this legislation is adequate, but that its implementation ought to be tightened so that the discovery of both potential and actual Internet abusers is intensified. It must be ensured that any adult who seeks contact with children via on-line communication can be punished in the event that it can be proven that the intent of this communication is sexual relations with a minor. No lack of resources can be accepted as an obstruction in this regard.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. When will the Danish Government fulfil its promise from the World Congress in Yokohama about the drafting of a plan of action regarding the commercial sexual exploitation of children?
2. What is the Danish Government doing to identify victims who are abused in connection with child pornography?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the Danish Government develops an action plan dealing with and specifying measures against the global, commercial sexual exploitation of children.
2. That it is specified in Danish legislation that the production and distribution of erotic images of children violate the children involved and are therefore defined as illegal.

3. That guidelines be written for the Danish police as to how section 21 in the Danish criminal code is to be implemented in practice.
4. That the Danish Government further strengthens measures aimed at helping minors out of prostitution.
5. That resources are allocated for the identification and treatment of children appearing in connection with child pornography.

Protection of children victimized by trafficking, articles 34, 35, 36, 39 and article 8 in the Optional Protocol concerning trafficking in children, child prostitution and child pornography

140. There is an increasing awareness amongst experts and politicians that the sale of children for commercial sexual and criminal exploitation (trafficking) is occurring in Denmark²⁹. The Reporting Group is therefore extremely positive towards an inter-ministerial initiative completed in November 2004 that mapped out this problem.

141. Trafficking in children who are forced to pick pockets grew in particular in 2003 and 2004. Trafficking in which children are commercially sexually abused does not take place on the streets, but behind closed doors. It is therefore extremely important to attain precise knowledge about the extent of the problem in Denmark and thereby be able to protect these children.

142. While Denmark has ratified the optional protocol regarding trafficking in children³⁰, it has yet to be determined how trafficked children are to receive the necessary protection and assistance during their time in Denmark and in connection with possible repatriation.

143. It is particularly problematic that many of these children are not identified as victims. In addition, there is lack of attention in the visitation system, insufficient education of professionals and collaboration between professional groups. The lack of goal-oriented treatment offered to victims is a problem that must be solved before trafficked children can be assured of help and protection in Denmark.

Disappearing asylum-seeking children

144. Every year, a significant number of unaccompanied asylum-seeking children who come to Denmark disappear. Of the newly registered unaccompanied asylum-seeking children in 2003, over half (59%) had left the Children's Centre for Unaccompanied asylum-seeking minors, before their case had been completed. The Danish Immigration Service assumes that Denmark serves as a transit country for many of these children, who subsequently continue to other countries to be reunited with their families there.

145. It is extremely disconcerting that such a number of children disappear without the Danish authorities making any attempt to acquire knowledge regarding their fate. If these children are illegally in another country, then they are particularly vulnerable to being exploited. There appears to be a lack of respect for articles 34, 35, and 36.

146. Closer examination of the fate of these disappearing children would provide the authorities with knowledge regarding whether there is a group of children whose disappearance ought to provide occasion for worry and investigation.

²⁹ Save the Children Denmark published a report in December 2003, which set decisive focus on this problem.

³⁰ Denmark ratified the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* in July 2003 after the legislative basis was established (including particular provisions in the criminal code pertaining to trafficking in humans (section 262a) that have been set in).

147. The Reporting Group regards it as important that the risk areas for the exploitation of children be further identified and that information for the target audiences working within the identified risk zones is ensured.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Which concrete initiatives will the Danish Government take to protect children who have fallen victim to trafficking?
2. How does the Danish Government ensure that children who are repatriated to their home country do not again fall victim to criminal ringleaders (traffickers)?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That the Danish Government takes concrete initiatives for the identification of trafficked children in Denmark. Moreover, that the Danish Government takes concrete initiatives to ensure the best possible assistance for children while they are in Denmark and helps to make sure that these children are repatriated to a safe environment.
2. That the problem encompassing the trafficking in children living in the risk zones must be further documented so that future assistance to these children can be adapted to current needs.

Children and youth in criminal law, articles 37 and 40

Concluding Observations/Comments 2001:

41: ...In light of articles 3, 37, 39 and 40 of the Convention, the Committee further recommends that the State party take all effective measures to ensure that children are separated from adults in detention facilities and that children are not subjected to solitary confinement, and subject to court review. Additionally, the Committee encourages the State party to reinforce its rehabilitation and reintegration programmes for children in conflict with the law.

The imprisonment and remanding of 15-17 year olds

148. The Reporting Group remains concerned that existing Danish legislation provides opportunity for youth between 15-17 years to be remanded in detention together with adults.

149. According to current Danish law³¹, minors who have received a prison sentence are to be placed in secure/locked residential centres managed by the social services, which then function as surrogate prisons; however, as these institutions are able to refuse the placement of the youth in question in special circumstances, this means that there are young people between 15-17 years who are imprisoned in the ordinary prison system; in institutions as often as possible, but also in prisons.

150. Young people serving sentences in prisons do so together with adults. The explanation for doing so is that it is not possible to ensure sufficient recreational opportunities for young people with the existing resources.

151. The Reporting Group is not satisfied with this explanation. A lack of resources can never be accepted as an excuse for imprisoning young people between 15-17 years together with adults; it is not in accordance with the best interest of the child/youth to be imprisoned together with adult criminals (articles 3 and 37.c), as it is not possible to protect the youth against strong prisoners in a negative prison hierarchy. Moreover, the opportunity to reach such young people via social work and support them in a course of re-socialization becomes more difficult.

³¹ Act no. 432 of 31 May 2000 about execution of punishment etc.

Solitary confinement

152. Section 770C subsection 4 of the Administration of Justice Act allows for the solitary confinement of 15-17 year olds for up to eight weeks. The Reporting Group feels that it should not be possible to subject children/youth under 18 years of age to solitary confinement.

153. As written in the Danish Government's third report to the Children's Committee, there is a group of young people that require a disproportionate amount of resources and are difficult to engage. Social workers encounter problems when trying to engage with these youth. In many cases, they are placed in solitary confinement so as to keep them separated from the adult prisoners.

154. Solitary confinement can entail a particular strain on the youth on account of their age. The Reporting Group regards this practice as being at odds with the best interest of the child/youth and being in conflict with article 3.1. Depending on the specific circumstances surrounding a case, solitary confinement can also be in conflict with article 37.

Youth sanctions

155. In 2001 it became possible to sentence 15-17 year olds to a youth sanction in which the young person is to undergo a course of social education divided in phases. In principle, a structured course of social education treatment is a good thing, but the dilemma with a youth sanction of this nature is that it represents a combination of punishment and social education treatment in which the distinction between the two is difficult to define.

156. Even though the young people are within the social education framework, they experience this sanction as a harsher and unjust punishment on the grounds that this so-called youth sanction is always two years, whereas young people over 18 years of age receive between 30 days and 1½ years in prison for having committed the very same criminal act (perhaps even committed together). The difference between the two forms of punishment is exacerbated by the fact that the young people who are sentenced to prison receive a deduction for the period of time that they have been remanded in custody prior to trial and sentencing. This is not the case for young people sentenced to the youth sanction; the period in which they have been remanded to custody is effectively added to their two-year youth sanction.

157. Given that young persons would prefer a shorter prison sentence, it becomes very difficult to work together with them in a social education perspective, and many institutions and social education residential homes simply give up, meaning that the youth in question is placed in institutions or remand centres in the prison system. The employees in social services often criticize this combination of punishment and social educational treatment.

158. The Reporting Group is concerned about this development. This concerns centred on the young people who have committed very serious crimes and where the measures taken at a much earlier point in time have been insufficient.

159. The Reporting Group believe that Denmark has not complied with article 3 and implemented both preventive and social educational measures in the best interest of the child. One of the difficulties with these children and youth, many of whom are ethnic minorities, is that problematic behaviours – both in childcare institutions and schools – are often regarded as stemming from cultural differences instead of being perceived as a result of social problems in the family; problems that in most families can lead to behavioural problems in children and youth.

Sentencing procedures for young people under 15 years of age

160. The strong media focus on crime committed by children under 15 years of age has provoked both the Danish Government and prominent politicians outside of the government to call for harsher sanc-

tions and punitive measures; also in relation to children as young as 12 years. A harsh and uncompromising “law and order tone” marks the debate. Punishment has come to be regarded by many as the only option. As a result, legislative reform in June 2004 meant that children as young as 12 years can be detained for up to 24 hours. However, detention in a waiting room or detention facilities may not exceed six hours. The law dictates that the police must inform the child’s parent or guardian as soon as possible. The Reporting Group feels that it ought to be stated that the parents must be informed as quickly as possible.

161. According to legislation regarding the use of force in residential homes³², children as young as 12 years of age can be placed in a secure residential home, i.e. a locked institution. The Reporting Group finds it absolutely indefensible to place children together with young criminals 15-18 years of age. There is a considerable risk that their older friends negatively affect the children in such institutions and that it is not possible to adequately protect them.

162. The Reporting Group looks upon this development concerning the sentencing procedures for children under 15 years of age with great concern, as it is perceived to be a slip in terms of the age of criminal responsibility in Denmark being reduced from 15 to 12 years. The Reporting Group finds that it is the children who are made to bear the responsibility for the fact that the municipal preventive work is insufficient.

Danish reservations

163. Denmark has expressed reservations as regards article 40.2 (b) (v). In the Committee’s treatment of the earlier reports, the Danish Government has indicated that this reservation will be reassessed in connection with impending revision of the Administration of Justice Act. This has yet to occur.

THE REPORTING GROUP RECOMMENDS THAT THE COMMITTEE POSES THE FOLLOWING QUESTIONS TO THE DANISH GOVERNMENT:

1. Which initiatives aimed at care and protection will the Danish Government take to ensure that children and young people who are already identified as being vulnerable in childcare institutions and schools do not end up in a life of crime (articles 3 and 19)?
2. What does the Danish Government intend to do to avoid the imprisonment of 15-17 year old youth together with adults (article 37.c)?
3. Which measures will the Danish Government take to ensure social education in terms of re-socialization measures instead of punishment (article 40)?
4. Will the Danish Government allocate resources for making municipal preventive efforts more effective in order to avoid the placement of children in secured institutions?

THE COMMITTEE OUGHT TO MAKE THE FOLLOWING RECOMMENDATIONS TO THE DANISH GOVERNMENT:

1. That preventive work be made the highest priority by getting the Danish Government to allocate resources for the further development of methods and the education of personnel so as to ensure early detection and measures capable putting an end to the early criminal activities committed by children and young people.
2. That sufficient resources are invested in the development and implementation of diverse and flexible solutions in relation to criminal groups of youth.
3. That resources are allocated for finding individual, ad-hoc solutions in relation to individual persons.
4. That social work personnel be further educated and trained. The goal must be to create a greater number of employees capable of working with this group of very difficult and rebellious

³² Executive Order no. 992 of 27. May 2004

- youth; and that they can establish sustainable contact. The pedagogical milieus must be more attractive for this group of youth so that they can be kept in a course of treatment.
5. That sufficient capacity in secure/locked residential homes can be ensured so as to be able to avoid the imprisonment of minors together with adults.
 6. That the solitary confinement of young people under 18 years of age be prohibited.
 7. That the reservation in relation to article 40.2 (b) (v) be rescinded.

IX: GREENLAND – COMMENTS ON THE DANISH GOVERNMENT REPORT³³

X.A. General measures

164. In general, the report about Greenland primarily provides information regarding the legal foundations for the fulfilment of the UN Convention on the Rights of the Child and the initiatives Greenland Home Rule would like to implement; however, there is no account of the experiences and assessments of specific initiatives that could indicate whether the UN Convention on the Rights of the Child is actually respected.

We believe that everyday life is different than described for many children and young people.

X.A.2 Measures for the implementation of the Convention's provisions (article 4)

165. The year 2000 was the official year of the child in Greenland; in this connection, a number of arrangements and conferences were held to compile the basis for the development of policy for children and youth with objectives, visions and concrete action plans.

This has yet to happen in 2004.

166. A "Centre of Knowledge for Children and Youth" (*Videnscenter for Børn og Unge*) has been established. It has one single employee responsible for collecting data about studies concerning children and youth in Greenland. It is a centre under the auspices of the former Social Directorate, now known as the Family Directorate, and there is reason to fear that the centre will constantly be subject to the political objectives of the minister of the day. A politically independent centre would be more appropriate; in addition to collecting the data produced by others, such a centre would also have the opportunity to conduct impartial research projects regarding the conditions experienced by children and youth in Greenland.

The centre ought to be associated with an educational institution, e.g. the university, instead of Greenland Home Rule.

X.C. General principles (articles 2, 3, 6 and 12)

167. There is no tradition in Greenland for collecting statistical information concerning the conditions of children and youth. It is therefore difficult to discern the extent to which the UN Convention on the Rights of the Child is respected. For example, there is no documentation of the number of neglected children and youth. There is considerable disagreement between professionals and the Family Directorate in the Greenland Home Rule as to the number of children on the waiting lists for placement outside of their own home. The public authorities have carried out the existing studies, which are either lacking or misleading.

An impartial study of how many children it involves has yet to be conducted.

168. Reference is made to the fact that the interests of the child in planning and development policy is fulfilled by virtue of a number of social initiatives on the municipal and central levels with reference to the establishment of drop-in centres for children and youth. It is worth mentioning that every single drop-in centre in Greenland has been established at the initiative of one or more NGOs. It has often been very difficult to attain resources from the Greenland Home Rule for these drop-in centres. Lim-

³³ The section numbering refers to the section in the Danish Government's 3. report to the UN Children's Committee

ited financial support has been granted to some drop-in centres, but the establishment and continued existence of these centres owes to local enthusiasts and NGOs.

169. *There are drop-in centres in the following towns In Greenland, all initiated by NGOs in collaboration with the municipality:*

- *Tasiilaq*

The town of Tasiilaq, where Save the Children Denmark and the Association for the Children of Greenland took the initiative. Responsibility for the drop-in centre has since been transferred to the municipality. Drop-in centres have subsequently been established in the settlements of Kuummiut and Kulusuk.

- *Scoresbysund*

The drop-in centre was established by the Association for the Children of Greenland.

- *Qaannaq*

Save the Children Denmark and Rotary have taken the initiative for the establishment of a drop-in centre for children and youth.

- *Nanortalik*

The initiative for the drop-in centre was taken by the Association for the Children of Greenland.

- *Nuuk*

Save the Children Denmark, Nuuk Rotary Club, Lions Club Godthåb and the Greenland Employer's Association established a house for children and youth.

X.C.3 The Child's right to life, article 6

170. It is troubling that infant mortality in Greenland is on the same level as it was in Denmark 25 years ago. There is an increasing need for information about health, living habits, hygiene, care, child-raising etc. Another growing health problem that goes unmentioned in the report is the increasing number of overweight children and youth, which can lead to serious consequences for health in the long run.

A national campaign about food policy, exercise and healthy living ought to be implemented.

X.C.3.c Suicide

171. The report states that 35 children committed suicide in the period 1998-2002, but the age group is unspecified, i.e. it is unknown whether they are 0 or 17 years of age.

The medical officer's report shows the following:

Number of suicides among children and youth from 1998 - 2002

Year	0-14 years	15-24 years
1998	1	16
1999	2	18
2000	1	15
2001	1	23
2002	4	22
Total	9	94

Calculations from 2003 show:

2

19

172. There is a general lack of resources, both in terms of finances and education. The local communities do not possess educated personnel to attend to the problems with suicide and prevention of the same.

173. Several theme days and conferences have been conducted for the purpose of developing a national strategy for the prevention of suicide. These plans have been implemented since the beginning of the 1990s. In September 2004, a national strategy for the prevention of suicide was drawn up. It is so new that it has not yet been possible to read it. A preventive department has been established in the Home

Rule, PAARISA, but the department and its initiatives are not particularly visible to the ordinary population.

X.E.1.b Help from the public sector, the municipality's obligation to ensure adequate living conditions for children and young people.

174. The municipalities are obligated to ensure and monitor the living conditions of children and youth, cf. the *Landsting statutory order for help to children and youth*. This report fails to indicate whether this occurs. Moreover, with the increasing social problems and increasing number of neglected children and youth in Greenland, it is feared that this obligation is not being fully complied with and fulfilled (article 19).

X.E.1.c Parental education

175. A trial project was undertaken in 2002 to offer courses in parent training in Nuuk, which is to serve as a pilot project for other municipalities. However, the assessments and further developments of the project have yet to be published, as well as how and when corresponding projects will be undertaken in other municipalities.

It is a general problem that the projects that have been undertaken are not followed up and assessed to facilitate future exchanges of experience

X.E.6. Protection of the child from physical or psychological violence and abuse

176. Reference is made in the Danish Government report to the Greenland Home Rule having passed the following political objective in the period 1999–2003: “Children’s right to a safe and harmonious childhood must be ensured. The neglect of children, including sexual abuse, must be prevented.” A national conference was held in 1999 concerning the sexual abuse of children. Save the Children Denmark, the Social Directorate and PAARISA stood for the conference, which consisted of workshops and lectures by people from Greenland and Denmark. Following up on the conference, a book was published with the conference content, debate and recommendations. Professionally speaking, it was a constructive conference in which the participants were able to create hope and a sense that it is worth making the effort.

Five years later, there have still yet to be any political initiatives building on the conference recommendations.

177. “Week 18”, the annual alcohol-free week in Greenland, is not working according to plan. The massive abuse of alcohol, which contributes to the neglect of children and youth, is hardly affected by calls to refrain from drinking one week out of the year.

X.E.7. Placement in foster homes etc. (article 20)

178. As presented in the Danish Government report (p. 117), statistics have not been compiled about the number of children placed outside of the home and the duration of such placement. However it is stated (p. 106) that the Family and Social Directorate continuously updates the registry of placed children and youth. This conflicting information clearly reveals the fact that registration and documentation are not priorities in the Home Rule work and planning concerning children and young people. The work in recent years has appeared somewhat arbitrary and uncoordinated, like stopgap solutions. The development in relation to placements depends too greatly on the politician who happens to be minister at the time.

Ministerial turnover has meant that there is no overriding political strategy in the planning.

X.E.7.b Waiting lists for residential homes

179. There is considerable uncertainty regarding the number of children and youth waiting for placement on the grounds that there is no national registry. Instead, there is talk of several arbitrary accounts. For example, the report mentions estimates in 2002 that there were 90-100 children waiting for placement. In 2004, the social administration in the Municipality of Nuuk was quoted in the *Sermitsiaq* newspaper that this single municipality has 50 children waiting for placement. The Cabinet member

responsible for families and health has had a study conducted in which it is stated that there are 24 children in all of Greenland waiting for placement, whereas according to the 2003 annual report issued by the residential homes, at the end of 2003 there were 46 children on the waiting list for placement in the residential homes.

The many different accounts prevent the orderly planning of the establishment of placements and other necessary types of measures for the benefit of the child.

X.F.1. Children with physically and mentally disabilities (article 23).

180. No mention is made in this section about paediatric psychiatry and the mentally ill children and youth and children with autism. There is a general tendency towards an increasing number of children and youth receiving paediatric psychiatric diagnoses. Neglecting to mention this area indicates that it is not a priority. It is our understanding that a psychologist is employed on the psychiatric ward A1 at Dronning Ingrid's Hospital to attend to the work with children and youth in collaboration with the paediatric psychiatric ward in Bispebjerg Hospital in Copenhagen.

This involves taboos, meaning that it is necessary to make paediatric psychiatry more visible so as to spread understanding and awareness, as well as getting the necessary financial resources allocated for this purpose.

X.F.4. The child's right to care (article 18 (3))

181. The purpose of the landsting statutory order concerning childcare institutions is admirable and in terms of legislation, it grants consideration to the development of the child; however, it is somewhat difficult to comply with in practice, as it is difficult to recruit educated personnel to the childcare institutions, meaning that many of the employees are uneducated. Similarly, there is considerable turnover in personnel.

X.G.1a The public primary and lower secondary school system

182. The Greenland Home Rule does not allocate the necessary financial resources for the renovation and construction of schools, meaning that many schools are run-down, draughty, cold and falling apart.
There is a need for child environment legislation.

X.G.1.d Completing courses of education

183. 38% of those seeking education do not complete their education, but nothing is mentioned as to what will be done to improve this situation. Improving this statistic is of great significance for Greenland's future. An impartial study is therefore required to cast light on the conditions and reasons for why so many young people do not complete an education.

On the basis of this study, focused and long-range efforts ought to be planned and carried out.

X.H.4. Protection against sexual exploitation and sexual abuse (article 34)

184. Via PAARISA, the preventive department in the health directorate, an array of different initiatives have been taken aimed at preventing sexual abuse, but there is no general and long-range strategy in which this process is assessed. Reference is made to a 2003 study that was intended to survey the extent and degree of sexual abuse among pupils in at the 10th form level. However, the results of this study have yet to be published.

There is a need for documentation in this area, but it is not enough to conduct a study that only encompasses a single year.

The Committee ought to make the following recommendations to Greenland:

Children's Council

185. An initiative from the past concerning the establishment of a Children's Council ought to be taken up again so that Greenland has a Children's Council similar to the Children's Council in Denmark and the Children's Ombudsman in Norway, Sweden and Iceland.

Policy for Children and Youth

186. General policy for children and youth must be developed, which will be capable of ensuring integrated and long-range action plans in relation to vulnerable children and youth and their families.

Educations

187. The area of education must be reinforced. An impartial study must be carried out that casts light on the conditions and reasons for why so many young people do not complete an education. On the basis of this study, focused and long-range measures for the future are to be planned and carried out.

Alcohol and hash abuse

188. Massive and focused preventive efforts are being implemented that can contribute to putting an end to the neglect and violation of children.

189. New alcohol treatment centres ought to be established, possibly in combination with family therapy centres, in addition to the existing alcohol treatment centres in Nuuk and Ilulissat, which work according to the Minnesota Model.

Sexual abuse

190. Thorough studies of the sexual abuse of children ought to be carried out; studies that can form the basis for an action plan against the sexual assault of children in Greenland.

Appendix:

The organizations behind the Reporting Group

Amnesty International

Amnesty International's vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

In pursuit of this vision, Amnesty International's mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of this work to promote all human rights.

A special thematic group, the Working Group for Children, has been engaged in the work for children's human rights since 1979. The group was in 1991 one of the initiators in the establishment of the Coalition for the Convention on the Rights of the Child.

*Amnesty International
Gammeltorv 8, 5. sal
1457 København K*

The Danish Youth Council (Dansk Ungdoms Fællesråd)

The Danish Youth Council is an umbrella organization for approximately 70 national children and youth organizations with a total of almost one million members related to society-oriented and idea-based work with children and youth. The Danish Youth Council works with democracy and influence for children and young people, education, international youth work, organizational development etc.

*Dansk Ungdoms Fællesråd
Scherfigsvej 5
2100 Copenhagen Ø*

The Danish Council of Organisations of Disabled People (De Samvirkende Invalideorganisationer)

The Danish Council of Organisations of Disabled People (DSI) was founded in 1934 and has 32 national member organisations representing more than 320.000 people with disabilities in Denmark. DSI is the only Danish umbrella organisation in the disability field.

*De Samvirkende Invalideorganisationer
Kløverprisvej 10 B
2650 Hvidovre*

DUI -LEG og VIRKE

DUI-LEG og VIRKE (DUI) is an independent children-, youth- and family organisation who is working on the foundation of the labour movement. The aim of DUI-LEG og VIRKE's activities is to give all children and youngsters the possibility of independent development in respect for and in co-operation with other people.

The backbone in DUI- is the 80 local branches throughout the country, where children and adult jointly plans and carry out a lot of fun and exiting activities. In DUI-LEG og VIRKE only the fantasy is the limit.

On national level DUI-LEG og VIRKE is working to put the children on the political agenda. DUI-LEG og VIRKE is the children's voice and fight to improve the living condition for children and their rights.

Through exchange between Danish and foreign children and youth they get an understanding and respect for other cultures. Through participation in concrete solidarity projects the links are tied between children in Denmark and other countries.

*DUI-LEG og VIRKE
Mågevej 22
2650 Hvidovre*

The Danish Institute for Human Rights (Institut for Menneskerettigheder)

The Danish Institute for Human Rights (DIHR) is a national human rights institution in accordance with the UN Paris Principles. DIHR established by statute of 6. June 2002. The Institute carries on the mandate vested in the Danish Centre for Human Rights in 1987. The work of the institute includes research, information, education, documentation and international programs. DIHR is designated as a body for the promotion of equal treatment without discrimination on the grounds of racial or ethnic origin as set out in Article 13 of the EU Council Directive 2002/43/EC on Equal Treatment Irrespective of Race and Ethnic origin. Further information on DIHR is available on www.humanrights.dk

Institut for Menneskerettigheder

Wilders Plads 8 H

1403 København K

Save the Children Denmark (Red Barnet)

Save the Children works for:

- A world which respects and values each child
- A world which listens to children and learns
- A world where all children have hope and an opportunity

Save the Children Denmark is a member of the International Save the Children alliance comprising 29 national Save the Children organizations with activities in more than 120 countries. Save the Children fights for children's rights. We deliver immediate and lasting improvements to children's lives in Denmark and worldwide.

Red Barnet

Rosenørns Allé 12

1634 København V

Save the Children Denmark Youth (Red Barnet Ungdom)

Save the Children Denmark Youth is an independent youth organization run by young people – for young people. As is the case in Save the Children, this work is based on the UN Convention on the Rights of the Child.

Save the Children Denmark Youth has mounted both national and international projects. These activities span a broad spectrum, all characterized by lively involvement and the participation of youth. Save the Children Denmark Youth works for the general dissemination of the Children's Convention via concrete projects.

Save the Children Denmark works for:

- making small smiles bigger
- good conditions for all children
- that all children are heard and have influence

Save the Children Denmark Youth

Rosenørns Allé 12

1634 Copenhagen V

UNICEF Denmark

UNICEF Denmark is UNICEF's Danish department. UNICEF is the United Nations Children's Fund and the world's largest and most influential relief agency for children. The organization works in 158 countries in all areas of significance for ensuring children's rights to survival and development. UNICEF Denmark works to disseminate awareness of children's conditions and rights and create understanding for UNICEF's work and obtain the means for such work. UNICEF works to ensure that children receive a good and healthy start in life, vaccination against the most dangerous children's diseases and equal access to education. The Children's Convention plays a central role in this work; among the most important working areas is relief to children with special needs for protection, e.g. children that suffer violence and abuse.

The vast majority of UNICEF's resources are invested in long-range help for children; however, UNICEF also provides rapid and efficient assistance in disasters, as the organization's net of national offices means that it is always present when disasters occur. UNICEF does not receive money from the UN. UNICEF's work is exclusively financed by voluntary contributions. UNICEF Denmark works to spread awareness regarding children's conditions and rights and create understanding for the work of the organization and obtain resources for this work.

UNICEF Denmark

UNICEF Plads 1

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