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**THE DANISH INSTITUTE FOR HUMAN RIGHTS'
SUBMISSION ON THE REPORT FROM THE DANISH
AUTHORITIES ON THE IMPLEMENTATION OF THE
RECOMMENDATIONS FROM THE COMMITTEE OF THE
PARTIES**

The Danish Institute for Human Rights (hereinafter the Institute) welcomes the call for submission communicated by e-mail of 30 August 2021 by the Secretariat of the Istanbul Convention Monitoring Mechanism concerning the Danish authorities' implementation of the recommendations from the Committee of the Parties.

As Denmark's national human rights institution, the Institute welcomes the opportunity to comment on the call. The Institute has the following comments and recommendations:

ARTICLE 4 – FUNDAMENTAL RIGHTS, EQUALITY AND NON-DISCRIMINATION

PSYCHOLOGICAL VIOLENCE

In 2019, Denmark criminalized psychological violence in Section 243 in the Danish Criminal Code. The Criminal Code was amended in March 2021 in order to clarify that negative social control is also covered by Section 243.

A research project from June 2021¹ shows that psychological violence can have severe psychological consequences and be a potential traumatic event in line with physical and sexualised violence. There is a need for relevant actors in this field, both the Danish municipalities and the Danish police, to ensure the necessary training and education to identify psychological violence.

The Institute recommends that:

- Denmark takes step to ensure that the relevant actors, both municipalities and the police, have the necessary training and education to identify psychological violence.

PREVENTIVE ACTIONS IN REGARD TO CONSENT-BASED RAPE LEGISLATION

In 2020, Denmark introduced a consent-based rape legislation in Section 216 of the Danish Criminal Code. The legislation on rape is now based on a criterium of consent rather than coercion.

In the consultation memo, the Institute underlined that preventive actions in the form of awareness-raising and education for children and young people as well as pedagogical training for teachers and professionals are important in order to counteract inappropriate norms of sex, gender and personal boundaries.²

The Institute recommends that:

- Denmark takes steps to ensure preventive action and education for children and young people in primary and secondary school as well as in gymnasiums and vocational institutions in relation to sex, gender and personal boundaries.

PERSONS WITH MENTAL OR COGNITIVE DISABILITIES

The consent-based rape legislation in Section 216 in the Criminal Code entered into force on 1 January 2021. However, intercourse that is obtained by exploiting a person's mental or cognitive disability is still independently criminalized under Section 218 in the Criminal Code.

In the consultation memo to the consent-based rape legislation, the Institute encouraged the Danish Ministry of Justice to reassess, whether it is still relevant to maintain Section 218, since there is a risk that situations, where there is no valid consent present, leads to a more lenient conviction under Section 218, because the criminal offense in Section 218 is easier to prove.³

The Institute recommends that:

- Denmark reassesses the maintenance of Section 218 in the Criminal Code and a further delimitation to the consent-based rape legislation in Section 216, including a clarification of whether there may be a valid consent present, in situations where a person's mental or cognitive disability is exploited to obtain intercourse with the person in question.

SEXUAL HARASSMENT

A second wave of #MeToo, sexism and sexual harassment has been widely debated in the Danish media since August 2020. Sexual harassment has proven to be a widespread and acknowledged problem in many sectors of the labour market and in the educational system in Denmark.

The Institute recommends that:

- Denmark takes steps to ensure that an employer may be liable under the Act on Equal Treatment for sexual harassment committed by employees (or third parties to whom the aggrieved employee has been subjected in relation to the work), if the employer has not taken sufficient measures to prevent and handle sexual harassment.

FEMICIDE

Research from 2016 mapping all partner killings from 2009 to 2011,⁴ shows that out of 36 partner killings, in 24 cases the victim was a woman (so-called femicide) and in six cases the victim was a man.⁵ The research also shows that in as many as 75 % of the partner killings, psychological violence took place prior to the killing.

The Danish police should have the relevant education and training to pay attention to risk factors such as psychological violence in the investigation in order to prevent partner killings.

The Institute recommends:

- Denmark takes steps to ensure that the Danish police receive the relevant training and education to pay attention to risk factors such as psychological violence in relation to partner killings.

ARTICLE 7 – COMPREHENSIVE AND CO-ORDINATED POLICIES

GENDER-NEUTRAL TERMS

There has been a gradual political change in Denmark in the perception of violence which has led to a broader understanding of violence as a phenomenon that affects both men and women as well as LGBTI+ persons. Since 2002, the Danish national action plans have used gender-neutral terms,⁶ and the gradual move from a conceptualisation of violence as ‘violence against women’ to ‘violence in close relationships’ increasingly portrays violence as a phenomenon that is separate from gender dynamics.⁷ The use of gender-neutral terms may

potentially lead to an inadequate understanding of the gendered dimensions of violence and thus a lack of data on gender-based violence.

The Institute recommends that:

- Denmark ensures a continued focus on the gender dimension of violence in relation to prevention and protection in the national action plans, by ensuring sections specifically targeting “violence against women”, “violence against men” and “violence against LGBTI+-persons” in the national action plans.

THE INTER-MINISTERIAL WORKING GROUP

The inter-ministerial working group on violence against women and domestic violence is the coordinating body in Denmark. The working group consists of representatives from different Danish ministries with the Department for Gender Equality as chair for the working group. The working group does not have any representatives from the relevant Danish NGO’s and the Danish police, even though they have both expert knowledge and practical experience within the area of violence against women.

The Institute recommends that:

- Denmark takes steps to strengthen the working group on violence against women and domestic violence by including relevant NGO’s and representatives from the police in the working group, as well as the work with national action plans and the monitoring of the area of violence against women.

Yours sincerely,

Sinja Laursen

SENIOR ADVISOR

¹ The Danish Research project: women in women shelters (June 2021), available in Danish at:

<https://danner.dk/sites/default/files/Kvinder%20paa%20kvindekrisecenter.pdf>

² Consultation memo of 18 March 2020 from The Danish Institute for Human Rights concerning the Danish Criminal Law Council's recommendations about rape legislation (nr. 1574/2020), available in Danish at:

<https://menneskeret.dk/sites/menneskeret.dk/files/media/document/hoeringssvar%20vedr.%20straffelovraadets%20betaenkning%20nr.%201574-2020%20om%20en%20frivillighedsbaseret%20voldtaegtsbestemmelse.pdf>

³ Consultation memo of 27 October 2020 from The Danish Institute for Human Rights to the consent-based rape legislation, available in Danish at:

<https://menneskeret.dk/sites/menneskeret.dk/files/media/document/H%C3%B8ringssvar%20over%20udkast%20til%20forslag%20til%20lov%20om%20%C3%A6ndring%20af%20straffeloven%20%28Samtykkebaseret%20voldt%C3%A6gtsbestemmelse%29.pdf>

⁴ The Danish Research project: psychological violence prior partner killings (2016), available in Danish at:

[Forebyggelse drab vold nære relationer.pdf \(danner.dk\)](#)

⁵ The remaining six cases fell outside the scope of the research report for various reasons.

⁶ See overview of the Danish national action plans from 2002-2022 at, available in Danish: [Handlingsplaner - Ministeriet for Fødevarer, Landbrug og Fiskeri \(fvm.dk\)](#)

⁷ The Danish Institute for Human Rights: Gender – Status 2019 (Køn – Status 2019), page 24, available in Danish with a brief English summary on pages 7-8 at: <https://www.humanrights.dk/publications/gender-status-2019>