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**FN's Torturkomité: Eksamination af Danmarks indledende rapport i henhold til FN-konventionen om tortur og anden grusom, umenneskelig eller nedværdigende behandling eller straf.**

Under den 38. samling i FN's Torturkomité, der afsluttedes den 18. maj 2007, var Danmarks 5. periodiske rapport om gennemførelsen af FN-konventionen om tortur og anden grusom, umenneskelig eller nedværdigende behandling eller straf til høring i komitéen.

Komitéens konklusioner og anbefalinger vedlægges til orientering. Endvidere vedlægges en kopi af FN's pressemeddelelse, der blev udsendt umiddelbart efter gennemførelsen af eksaminationen.

## Udenrigsministeriet meddeler:

### Konklusioner fra FN's Torturkomité om Danmarks 5. periodiske rapport

FN's Torturkomité har den 18. maj vedtaget sine konklusioner om Danmarks 5. periodiske rapport vedrørende gennemførelsen af FN's konvention om tortur og anden grusom, umenneskelig eller nedværdigende behandling eller straf. Danmark blev eksamineret i rapporten den 2. – 3. maj 2007.

Torturkomiteen hilser bl.a. følgende forhold velkommen:

- Bestræbelserne på at forbedre forholdene i fængslerne, herunder indførelse af alternative former for frihedsberøvelse, herunder elektronisk overvågning ("tagging").
- Den særlige støtte til rehabilitering af og forbedring af levevilkårene for traumatiserede flygtninge og deres familier.
- Regeringens beslutning om at forbedre forholdene på asylcentre.
- Samarbejdet med de frivillige organisationer med henblik på at udrydde tortur og at yde bistand i Danmark og internationalt til torturofre.
- Danmarks indsats for at fremme respekt for menneskerettighederne overalt i verden, især for at bekæmpe tortur, herunder
- Danmarks position som en af verdens største bilaterale bistandsdonorer *per capita*,
- Danmarks finansielle bidrag til FN, herunder FN's Frivillige Fond for Torturofre,
- Danmarks indsats for ratifikation og gennemførelse af den valgfri protokol til FN's Torturkonvention samt
- Danmarks fremlæggelse af resolutioner mod tortur i FN's Generalforsamling og den forhenværende Menneskerettighedskommission samt bestræbelserne for at styrke indsatsen mod tortur i FN's Menneskerettighedsråd.

Torturkomiteen anbefaler bl.a. Danmark at:

- Inkorporere FN's Torturkonvention i dansk ret.
- Indføre specifikt forbud mod tortur i den civile og den militære straffelov.
- Sikre, at retsforfølgning af tortur ikke begrænses af forældelsesregler.
- Sikre overholdelsen af konventionens art. 3 i forbindelse med overdragelse af personer til andre stater.
- Begrænse anvendelsen af isolationsfængsling yderligere.
- Sikre hurtig og uafhængig undersøgelse af alle klager over retshåndhævende myndigheder, herunder især klager over dødsfald i fængslerne.
- Gennemgå de eksisterende rammer for behandling af klager over overdreven magtanvendelse fra de retshåndhævende myndigheders side med henblik på at sikre respekt for Torturkonventionen.
- Overveje følgerne af de lange ventetider i asylcentre samt tilbyde børn og voksne i disse særlige ydelser, herunder uddannelses- og sundhedstilbud.

Danmarks næste periodiske rapport skal afgives til FN's torturkomité i juni 2011.

Komitéens konklusioner og anbefalinger kan læses her: XXX

Udenrigsministeriet, den 21. maj 2007

5. With regard to traumatized refugees and their families residing in Denmark, the Committee notes with appreciation funds allocated to special projects, which are set to run until 2010, to facilitate their rehabilitation and improve their living conditions.

6. The Committee also notes with appreciation the State party's decision to allocate additional funds to improve the living conditions in asylum centres, in particular the living conditions of families with children.

7. The Committee welcomes the State party's cooperation with non-governmental organizations engaged in eradicating torture and providing assistance and rehabilitation to victims of torture in Denmark and internationally.

8. The Committee commends the State party for its global efforts to promote respect for human rights, in particular to combat and eradicate torture, such as:

(a) Being one of the world's largest bilateral donors in terms of development assistance per capita, and in this context developing a national framework for bilateral cooperation against torture;

(b) Contributing to United Nations agencies, programmes and funds, including the UN Voluntary Fund for the Victims of Torture;

(c) Promoting the universal ratification of the Optional Protocol to the Convention, including the State party's early ratification of the Optional Protocol in 2004, and supporting its implementation;

(d) Presenting a resolution against torture in (the Third Committee of) the United Nations as well as before the former United Nations Commission on Human Rights and taking initiatives to structure and strengthen the newly established Human Rights Council's action against torture; and

(e) Playing an active role in the implementation of the Guidelines for the European Union policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment.

### **C. Principal subjects of concern and recommendations**

#### **Incorporation of the Convention**

9. The Committee regrets that the State party has not changed its position with regard to the incorporation of the Convention into Danish law. The Committee is of the view that the incorporation of the Convention into Danish law would not only be of a symbolic nature but that it would strengthen the protection of persons allowing them to invoke the provisions of the Convention directly before the courts.

**The Committee recommends that the State party incorporate the Convention into Danish law in order to allow persons to invoke it directly in courts, to give prominence to the Convention as well as to raise awareness of its provisions among members of the judiciary and the public at large.**

13. The Committee recalls its constant view (CAT/C/CR/33/3, paras.4b, 4d, 5e and 5f and CAT/C/USA/CO/2, paras.20 and 21) that article 3 of the Convention and its obligation of non-refoulement applies to a State party's military forces, wherever situated, where they exercise effective control over an individual. This remains so even if the State party's forces are subject to operational command of another State. Accordingly, transfer of a detainee from its custody to the authority of another State is impermissible when the transferring State was or should have been aware of a real risk of torture. (article 3)

**With regard to transfer of detainees within a State party's effective custody to the custody of any other State, the State party should ensure that it complies fully with article 3 of the Convention in all circumstances.**

#### **Solitary confinement**

14. The Committee notes with appreciation that the upper limit for solitary confinement of persons under the age of 18 years is reduced from eight weeks to four weeks. Despite the amendments of the Administration of Justice Act to limit the use of solitary confinement in general and in particular with respect to persons under the age of 18 years, the Committee remains concerned at the placement of persons in prolonged solitary confinement during pre-trial detention. It notes with particular concern that persons, including persons below the age of 18 years, suspected of offences against the independence and security of the State (chapter 12 of the Criminal Code) or against the Constitution and the supreme authorities of the state (chapter 13 of the Criminal Code) may be held indefinitely in solitary confinement during their pre-trial detention. However, the Committee notes that there is a judicial review mechanism in place to review the need to continue the solitary confinement. (article 11)

**The State party should continue to monitor the effects of solitary confinement on detainees and the effects of the 2000 and 2006 amendments to the Administration of Justice Act which have reduced the number of grounds that may give rise to solitary confinement and its duration. The State party should limit the use of solitary confinement as a measure of last resort, for as short a time as possible under strict supervision and with a possibility of judicial review. Solitary confinement of persons below the age of 18 years should be limited to very exceptional cases. The State party should aim at its eventual abolition (CRC/C/DNK/CO/3, paras.58-59).**

**With regard to persons suspected of offences against the independence and security of the State (chapter 12 of the Criminal Code) or against the Constitution and the supreme authorities of the state (chapter 13 of the Criminal Code) who may be held indefinitely in solitary confinement during their pre-trial detention, the State party should ensure respect for the principle of proportionality and establish strict limits on its use. In addition, the State party should increase the level of psychological meaningful social contact for detainees while in solitary confinement.**

#### **Prompt and impartial investigations**

15. The Committee notes that the State party has responded to the criticism raised by the case of the death in police custody of Jens Arne Ørskov in June 2002, and other individual cases, by setting up a broad-based committee to review and evaluate the current system for handling complaints against the police and processing criminal cases against police officers. Nevertheless, the Committee is concerned about allegations of violations committed by law enforcement officials and, in particular, that the impartiality of subsequent investigations has been questioned. (articles 12, 13 and 14)

19. The Committee requests the State party to provide detailed statistical data, disaggregated by crime, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on the related investigations, prosecutions, and penal or disciplinary sanctions. Information is further requested on any compensation and rehabilitation provided to the victims.

20. The State party is encouraged to disseminate widely the reports submitted by Denmark to the Committee and the conclusions and recommendations, in appropriate languages, through official websites, the media and non-governmental organizations.

21. The Committee invites the State party to submit its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, recently recommended by the international human rights treaty-bodies (HRI/MC/2006/3 and Corr.1).

22. The Committee requests the State party to provide, within one year, information on the measures taken to implement the Committee's recommendations contained in paragraphs 15, 16 and 19.

23. The State party is invited to submit its seventh periodic report by 30 June 2011.

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