

TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT

UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Denmark, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Denmark, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

DENMARK REVIEW

Justice System

➤ *Quality of justice*

The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes in his 2018 report mission to Denmark and Greenland stated that victims of transnational rights abuses perpetrated by businesses, in particular with respect to occupational exposure to toxic substances, face various obstacles in seeking effective remedy. The challenges include proving damages, establishing causality, high costs and, potentially, a lack of independence of judicial systems. He pointed out that States have a duty to address these and other extraterritorial impacts of businesses domiciled in the State's territory or subject to its jurisdiction in order to prevent the denial of justice and ensure the right to effective remedy of victims abroad ([A/HRC/39/48/Add.2](#), para 33).

In 2019, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions initiated a dialogue with Denmark about the possible adoption of measures to exclude Danish nationals allegedly associated with the Islamic State of Iraq and the Levant (ISIL) and/or other similar groups, from accessing their right to consular assistance. The Special Rapporteur found that this was tantamount to potentially exposing them to torture and/or the unlawful imposition of the death penalty, potentially making Denmark complicit in an arbitrary killing. She

recommended Denmark to repatriate the nationals concerned as soon as possible so that they can be tried in a manner consistent with international law, which includes adequate legal assistance at all stages of the proceedings ([AL DNK 3/2019](#), available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

In February 2021, UN Human Rights experts called on 57 countries, including Denmark to repatriate women and children from camps in northeast Syrian camps. The experts recalled the urgent need for justice, truth and reparation for all of the victims of the very serious violations of human rights and humanitarian law that have occurred in the region. In that context, the continued detention, on unclear grounds, of women and children in the camps is a matter of grave concern and undermines the progression of accountability, truth and justice. The experts said they were gravely concerned that the exercise, reportedly to evaluate security threats, lacked regard for basic principles of due process and solely targeted families with alleged links to foreign ISIL fighters, including women and children, who already suffer from heightened discrimination, marginalisation and abuse on the basis of their alleged affiliation with the group, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26730>

The UN Committee on Economic, Social and Cultural Rights in its 2019 concluding observations recommended that in the planned legal reform of criminal law, Denmark address barriers to reporting, investigation and prosecution of sexual violence, including by strengthening the capacity of the police, prosecutors and judges on the relevant criminal provisions and gender-sensitive investigations of sexual violence ([E/C.12/DNK/CO/6](#), para 44).

➤ **Other**

In October 2020, a number of UN Special Procedures initiated a dialogue with Denmark on the so-called ‘ghetto package’, a series of laws and amendments adopted in 2018 providing for differential treatment on grounds such as national origin, social status and residence, whereby the Government can designate certain neighbourhoods as “ghettos” or “tough ghettos” on the basis of the percentage of “non-Western” immigrants and descendants. Deep concerns of discrimination based on protected grounds had previously been expressed by the UN Committee on Economic, Social and Cultural Rights in its 2019 concluding observations ([E/C.12/DNK/CO/6](#), para 23). In their 2020 communication, the UN Special Procedures notably raised amendments to the Danish Penal Code that entered into force in January 2019 enabling police to designate areas with high crime rates as “enhanced punishment zones”, disproportionately applying to “ghetto” neighborhoods. People convicted of crimes there generally face sentences twice as long as individuals committing the same crimes elsewhere, while for crimes already punished by a long sentence of imprisonment, the enhanced punishment zone increases the sentence by one-third. The UN Special Procedures mandates found that the application of these laws targeting racial, ethnic, and religious minorities was a clear violation of the right of equality before the law and equal treatment before tribunals ([UA DNK 3/2020](#) available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>, see also

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26414&LangID=E>).

Other institutional issues related to checks and balances

➤ Independent authorities

Denmark's NHRI was re-accredited with A status on October 2018, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20October%202018-Eng%20FINAL%20.pdf>.