

## DENMARK

### Follow-up - State Reporting

#### Action by Treaty Bodies, Including Reports on Missions

#### CCPR, CCPR/C/SR.2709/Add.1 (2010)

Human Rights Committee  
Ninety-Eighth session

Summary record (partial) of the 2709th meeting  
Held at Headquarters, New York,  
on Wednesday, 24 March 2010, at 10 a.m

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#### Progress report of the Special Rapporteur for follow-up on concluding observations (CCPR/C/98/2/CRP.1)

1. **Mr. Amor**, speaking as Special Rapporteur for follow-up on concluding observations, introduced his report, which related to concluding observations the Committee had adopted from the eighty-fifth through the ninety-fourth sessions. He reviewed, country by country, the status of the response to the concluding observations and the action he had recommended to be taken in each case.

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5. Letters would be sent to a few States indicating that their replies had been largely satisfactory but that some additional information was required, and highlighting the instances where they had failed to implement recommendations in the concluding observations. In addition, the submission of Denmark had now been translated, and the report would be amended to show that it would be asked to submit some information in addition to its largely satisfactory replies. Lastly, the response of Austria had been on the whole satisfactory, and no further action was recommended.

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11. *The recommendations contained in the report of the Special Rapporteur for follow-up on concluding observations, as orally amended, were approved.*

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## Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,<sup>16</sup> the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,<sup>17</sup> an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>18</sup> Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.<sup>19</sup>

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in

the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

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#### **Ninety-fourth session (October 2008)**

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#### **State party: Denmark**

**Report considered:** Fifth periodic (due on 31 October 2005), submitted on 23 July 2007.

#### **Information requested:**

Para. 8: Continue its efforts to eliminate violence against women, including domestic violence, by means of, inter alia, information campaigns on the criminal nature of this phenomenon and the allocation of sufficient financial resources to prevent such violence and provide protection and material support to victims (arts. 3, 7 and 26).

Para. 11: Review its legislation and practice in relation to solitary confinement during pretrial detention, with a view to ensuring that such a measure is used only in exceptional circumstances and for a limited period of time (arts. 7, 9 and 10).

**Date information due:** 31 October 2009

#### **Date information received:**

*4 November 2009* Follow-up report received (para. 8: replies incomplete; para. 11: largely satisfactory).

#### **Action taken:**

*26 April 2010* A letter was sent indicating that the procedure was complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory: review of legislation on solitary confinement during pretrial detention (para. 11). The letter included a request for additional information on certain questions: measures aimed at eliminating violence against women (para. 8).

**Recommended action: A reminder should be sent.**

**Next report due:** 31 October 2013

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<sup>16</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40, vol. I*

(A/58/40 (vol. I)).

<sup>17</sup> Ibid., *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

<sup>18</sup> The table format was altered at the ninetieth session.

<sup>19</sup> As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

**Follow-up - State Reporting  
Action by State Party**

**CCPR, CCPR/C/DNK/CO/5/Add.1 (2009)**

**Information received from Denmark on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/DNK/CO/5) [4 November 2009]**

In its concluding observations on the examination of Denmark's fifth periodic report (CCPR/C/DNK/CO/5) para 15 the Human Rights Committee requests Denmark to provide, within one year, relevant information on its implementation of the Committee's recommendations in paras 8 (on violence against women) and 11 (on long-term solitary confinement during pre-trial detention).

In response the Government of Denmark is pleased to forward the following information:

Para 8: The Committee notes as a positive aspect the initiatives taken by Denmark to combat violence against women, for instance the National Action Plan 2005-2008.

The multi-faceted approach in this action plan and in the former action plan covering 2002-2004 will continue, as 35 million Danish kroner has been allocated to a new National Strategy to combat violence in intimate relations 2009-2012. This strategy is currently being developed and the two main ambitions are to fully integrate the specific initiatives on partner violence in the existing support system and to improve the prevention at all levels of partner violence. The national strategy will ensure a continued focus on this problem, including among the general public.

For further and more detailed information on the combat of violence against women, please refer to the 7th Periodic CEDAW Report from Denmark and the Replies to List of Issues in connection to this report.

Para 11: The Government is very keen on reducing the number and length of instances of solitary confinement during pre-trial detention and in order to ensure this the Administration of Justice Act was amended in 2006.

The Government also wishes to state that there are criminal cases where it is necessary to exclude a person held in pre-trial detention from association with other detainees. This is particularly so in criminal cases with professional, strongly organised elements and international relations.

Nevertheless, under Danish law the criteria for excluding a person held in pre-trial detention from association with other detainees are very strict. It is a requirement that the purpose cannot be achieved by less burdensome restrictions, including placing the detainee in another detention centre than other specific detainees or in some other way excluding the detainee from association with such other detainees. It is also a requirement that the exclusion from association with other detainees – taking into account, where relevant, the particular burden which the exclusion may

be due to the detainee's youth, physical or mental vulnerability or other personal circumstances – is not disproportionate in comparison with the importance of the case and the penalty which may be expected if the detainee is found guilty. It is also a requirement that the investigation is conducted with the particular speed which is necessary when a detainee is excluded from association with other detainees, including using the possibilities of securing evidence by having a witness testify before a court prior to the trial. If the detainee is under the age of 18, it is an additional requirement that very exceptional circumstances make exclusion from association with other detainees necessary.

The Government points out that "solitary confinement" means exclusion from association with other detainees. It does not mean that the detainee is "isolated" in other respects. On the contrary, personnel of the Prison and Probation Service must continuously be particularly attentive as regards the need of such detainees for more extensive contact with personnel, visit by a doctor, including a psychiatrist, more extensive access to visits, etc.

Under Danish law, exclusion from association of persons held in pre-trial detention (hereafter referred to as "solitary confinement") in order to prevent interference with the investigation may be imposed by court order for an initial period not exceeding 2 weeks. The court may by subsequent orders extend the solitary confinement for periods not exceeding 4 weeks (2 weeks if the detainee is under the age of 18) at a time. Consequently, any solitary confinement is subject to regular judicial review at very short intervals.

Furthermore, the Administration of Justice Act also provides for maximum periods of time of solitary confinement.

In the most serious cases (punishable by 6 years' imprisonment or more), the maximum period of solitary confinement is 8 weeks which may be extended only in exceptional circumstances (4 weeks if the detainee is under the age of 18, and this may only be extended in very exceptional circumstances and provided that the investigation concerns Parts 12 or 13 of the Criminal Code (terrorism, etc.)). Before the public prosecutor requests an extension of solitary confinement beyond 8 weeks (4 weeks if the detainee is under the age of 18), the Director of Public Prosecutions must endorse the request, and the request may not be granted by the court in the absence of such endorsement.

In other cases the maximum period of solitary confinement is 2 or 4 weeks which may not be extended.

In conclusion, there are extensive guarantees to ensure that solitary confinement during pre-trial detention is used only in exceptional circumstances and for a limited period of time.

As described in paras. 247-253 of Denmark's fifth periodic report, the Administration of Justice Act was amended in December 2006 with a view to reducing the number and lengths of instances of solitary confinement. The amendment entered into force on 1 January 2007.

In order to ensure that the Prosecution Service observes these new rules concerning solitary confinement, the Director of Public Prosecutions has sent out information and issued guidelines

regarding the new rules.

Thus in December 2006, prior to the entering into force of the rules the Director of Public Prosecutions sent out a memo to the State Prosecutors and Police Commissioners accounting for the changes in the Administration of Justice Act in relation to the use of solitary confinement, including the new rules concerning time limits, the new requirement that a request for continuous solitary confinement must be put to the Court in writing and must entail the grounds for the request, the requirement that the Director of Public Prosecution must approve a request for continuous solitary confinement beyond 8 weeks and about the enhanced possibility to secure evidence before the main proceedings.

In July 2008, the Director of Public Prosecutions sent out instructions on how to apply for the approval of the Director of Public Prosecutions in cases concerning the use of solitary confinement beyond 8 weeks. It follows from these instructions that the request for approval must entail information about the specific risk that the person in question will hamper the investigation and about the reasons to believe that such a risk is present.

In 2008 the Director of Public Prosecutions approved the Police Commissioners' recommendations about the use of solitary confinement beyond 8 weeks in three cases (concerning 4 persons). In 2009 to this date the Director of Public Prosecutions approved recommendations from the Police Commissioners in four cases (concerning 11 persons).

In all the above-mentioned cases the Court has accepted the Prosecutions Service's request for the use of solitary confinement beyond 8 weeks.

In order to keep the application in practice of solitary confinement under constant review, the Director of Public Prosecutions submits a yearly report to the Ministry of Justice on the number and lengths of instances of solitary confinement during pre-trial detention. The Ministry of Justice forwards the report to Parliament's Legal Affairs Committee.

The first annual report by the Director of Public Prosecutions on the number and lengths of instances of solitary confinement during pre-trial detention after this amendment, covering the year 2007, was submitted in the fall of 2008. The main conclusions of the report may be summarised as follows:

- In 2007 the number of instances of solitary confinement was 273. This was a reduction by 42.6 % in comparison with 2006 and a reduction by 50.7 % in comparison with 2001.
- In 2007 the proportion of detainees held in pre-trial detention who were placed in solitary confinement was reduced to a very significant degree. In 2006 8 % of persons held in pre-trial detention was at some point during their pre-trial detention subject to an order for solitary confinement; in 2007 that figure dropped to 4.6 %.
- The average length of solitary confinement in the period 2001 to 2006 was 28, 30, 37, 36, 33 and 29 days, respectively. The slow but steady reduction registered since 2004 continued in 2007, where the average length of solitary confinement was 27 days.
- From 2006 to 2007 the total number of days of solitary confinement was reduced by 48 % from 13,838 days to 7,189 days.

- The number of instances of solitary confinement exceeding 8 weeks has varied between 2001 and 2006, during which period the number of such cases has been between 57 and 158 per year. In 2007 the number of such cases was reduced very significantly from 57 in 2006 to 19 instances of solitary confinement exceeding 8 weeks.
- In 2007 five persons under the age of 18 were subject to solitary confinement. The solitary confinement lasted between 2 and 14 days. Since 2001 between one and six persons under the age of 18 per year have been subjected to solitary confinement, and the length of solitary confinement in those cases has varied between 1 and 56 days. Since 2006 no person under the age of 18 has been subjected to solitary confinement for more than 14 days.

The next report is expected to be submitted before the end of the year.

The Government finds that the report covering the year 2007 by the Director of Public Prosecutions shows that the considerable efforts undertaken by the Government to reduce the use of solitary confinement during pre-trial detention have been successful. In particular, the legislative amendment in December 2006 and the subsequent implementation by the police and prosecution service seem to have resulted in a very significant reduction in the number of instances of solitary confinement, the total number of days of solitary confinement and also in the number of instances of solitary confinement exceeding 8 weeks.

As regards persons under the age of 18, it is noteworthy that the number of cases per year has not exceeded six since 2001, and that the period of solitary confinement in those cases has not exceeded 14 days since 2006.

The Government will continue to keep the use of solitary confinement under close review, in particular on the basis of the yearly reports submitted by the Director of Public Prosecutions.