



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities

#### Concluding observations on the initial report of Denmark\*

##### I. Introduction

1. The Committee considered the initial report of Denmark (CRPD/C/DNK/1) at its 155th and 156th meetings, held on 23 and 24 September 2014 respectively, and adopted the following concluding observations at its 169th meeting, held on 2 October 2014.
2. The Committee welcomes the initial report of Denmark, comprising the information on Denmark and on the self-governed territories within the Kingdom, namely the Faroe Islands and Greenland, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/DNK/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the fruitful dialogue held with the State party's delegation during the consideration of the report and commends the State party for the strength of its delegation, which included many representatives of relevant government ministries as well as representatives of the government ministries of the Faroe Islands and of Greenland, responsible for the implementation of the Convention on the Rights of Persons with Disabilities.

##### II. Positive aspects

4. The Committee commends the State party on its efforts to review and amend its legislation, in particular its adoption of the Consolidation Act on Social Services No. 1093 of 5 September 2013, Consolidation Act No. 727 of 2009 to Compensate Disabled Persons in Employment, and Act No. 31 of 2005 on the Prohibition of Discrimination in the Labour Market, as well as the amendment to the Upper Secondary School Act, designed to integrate persons with autism, in 2013. The Committee commends the Government of the Faroe Islands on its adoption of the Act against Discrimination in the Labour Market due to Disability, which came into force in May 2011.
5. The Committee also commends the State party on initiating programmes on the rights of persons with disabilities, such as the plan of action for people with mental disabilities, in May 2014, and on increasing the resources available in this area.

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\* Adopted by the Committee at its twelfth session (15 September–3 October 2014).



6. The Committee commends the State party on a number of achievements. It welcomes the fact that Danish Sign Language has been recognized as an official language, which is an important step towards full recognition of the rights of persons with disabilities in the State party. The Committee also notes that the State party has established a coordination body — the Interministerial Committee — which is commissioned to implement the Convention within the sectorial fields under the coordinating authority of the Ministry for Children, Gender Equality, Integration and Social Affairs. The Committee also commends the State party on its exemplary role in international development assistance and on the integration of a disability policy perspective therein. The Committee commends the Government of Greenland for commencing the establishment of a national disability centre, in Sisimiut, Greenland.

7. The Committee welcomes the State party's accession to the Optional Protocol to the Convention on the Rights of Persons with Disabilities, with the territorial exclusion of Greenland, on 23 September 2014.

### III. Principal areas of concern and recommendations

#### A. General principles and obligations (arts. 1–4)

8. The Committee is concerned that the National Disability Action Plan of 2013 does not cover broadly all of the rights and substantive areas under the Convention, and that it remains relatively general.

9. **The Committee recommends that the State party review the National Disability Action Plan to ensure the coverage of all rights and substantive areas under the Convention, and that it establish, in this regard, concrete objectives, measurable targets, adequate budget, and indicators, to evaluate progress in the implementation of the Government's disability policy.**

10. The Committee is concerned about the absence of disability policy action plans in the Faroe Islands and Greenland, and in particular about the lack of support for organizations of persons with disabilities in Greenland to enable them to engage with the Government in implementation of the Convention.

11. **The Committee recommends that the Governments of the Faroe Islands and of Greenland adopt dedicated disability policy action plans to effectively implement the Convention. It also recommends that the Government of Greenland support the work of organizations of persons with disabilities to ensure their effective participation in consultations on and implementation of the Convention.**

12. The Committee is concerned that the Convention is not explicitly incorporated into the laws of Denmark, the Faroe Islands and Greenland. It is also concerned at the insufficient information about the application of the Convention by the State party's courts and authorities. The Committee notes with concern that officials of State, regional and municipal authorities are not sufficiently aware of their obligation to promote the implementation of the Convention.

13. **The Committee recommends that the State party ensure incorporation of the Convention so that it is applicable as law of Denmark, the Faroe Islands and Greenland. The Committee also recommends that the State party take measures to facilitate direct application of the Convention by the courts and the authorities, and undertake training programmes to facilitate the active application and implementation of the Convention by the officials of State, regional and municipal authorities in all parts of the Kingdom of Denmark, including by providing guidance**

to the municipalities on the implementation of the respective acts on social services in observance of the Convention's provisions.

## **B. Specific rights (arts. 5–30)**

### **Equality and non-discrimination (art. 5)**

14. The Committee notes the establishment of the Government's anti-discrimination unit which has a mandate to monitor and prevent discrimination against persons with disabilities; however, it is concerned that the State party lacks comprehensive anti-discrimination legislation that would provide protection from discrimination on the basis of disability beyond the labour market. The Committee is also concerned at the lack of legal remedies for persons with disabilities whose rights under the Convention have been violated, and the absence of available information thereon.

15. **The Committee urges the Governments of Denmark, the Faroe Islands and Greenland to adopt new comprehensive cross-sectoral anti-discrimination legislation that extends protection to beyond the labour market and affirms the denial of reasonable accommodation as a form of discrimination on the basis of disability. The Committee recommends that the State party take steps to ensure that reasonable accommodation is provided in all spheres of society, without any exemption; that it ensure effective legal remedies to persons with disabilities, including the possibility of submitting complaints related to discrimination on the basis of disability to the Board of Equal Treatment; and that it promote better awareness of the Convention among rights-holders.**

16. The Committee is concerned at the lack of disaggregated data on cases of multiple and intersectional discrimination, and at the inadequate measures for dealing with cases of intersectional discrimination — for example, disability combined with gender or ethnicity — which require more development.

17. **The Committee recommends that the State party collect and disseminate disaggregated data on cases of multiple and intersectional discrimination, and that it adopt effective and specific measures to prevent multiple and intersectional forms of discrimination, including permitting complaints of discrimination on more than one ground, establishing higher levels of compensation for victims, and imposing higher penalties for perpetrators.**

### **Women with disabilities (art. 6)**

18. The Committee is concerned that the Act on Gender Equality does not specifically address women and girls with disabilities. The Committee is also concerned that the State party has not undertaken any specific initiatives aimed at women and girls with disabilities in the educational system, nor any specific measures for women with disabilities to find or maintain employment.

19. **The Committee recommends that the State party ensure that the perspective of gender and disability is encompassed in its laws and policies and its sectorial services, and in the implementation and evaluation of these. The Committee also recommends that the State party take measures to increase opportunities for adequate education and employment for women and girls with disabilities.**

### **Children with disabilities (art. 7)**

20. The Committee is concerned that, according to the National Council for Children, children who are hospitalized in psychiatric hospitals can be subject to forced treatment.

21. **The Committee recommends that the State party abolish forced hospitalization and treatment of children in psychiatric hospitals, and provide adequate opportunities for information and counselling to ensure that all children with disabilities have the support they need to express their views.**

**Awareness-raising (art. 8)**

22. The Committee is concerned about the reports of prevailing prejudice among the general population regarding various forms of disabilities, which negatively affects the ability of persons with disabilities to enjoy rights on an equal basis, including in the area of employment.

23. **The Committee encourages the State party to devise and adopt a strategy with concrete and measurable targets, in consultation with organizations of persons with disabilities, to raise awareness throughout society — among the general public, the government and private sectors, and persons with disabilities themselves — to promote a positive image of persons with disabilities and knowledge about their rights.**

24. The Committee notes with concern the limited information about the level of awareness of the contents of the Convention among public officials and private actors, including the concepts of reasonable accommodation and disability-based discrimination.

25. **The Committee recommends that the State party undertake and regularly evaluate campaigns and other forms of training, in cooperation with organizations of persons with disabilities, for public officials and private actors to further develop their knowledge of the rights and obligations stemming from the Convention, in particular in regard to reasonable accommodation.**

**Accessibility (art. 9)**

26. The Committee is concerned at the absence of comprehensive measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, and to other facilities and services open to or provided to the public, both in urban and rural areas. The Committee also notes with concern the lack of systematic compliance with the Building Regulations and the limited access to transport. The Committee further notes with concern that information on public websites is not systematically published in accessible formats.

27. **The Committee recommends that the State party adopt a comprehensive plan to ensure to all persons with disabilities access to facilities, information and services, which would include concrete objectives, time frames, budgets, sanctions and evaluation, as elaborated in the Committee's general comment No. 2 (2014) on accessibility. In this regard, the Committee recommends that the State party: (a) conduct continuous training on universal design and accessibility standards, including the Building Regulations, for relevant professionals, and systematically enforce sanctions for those who fail to implement accessibility standards; (b) ensure that private entities that offer public transport and other services observe accessibility requirements; and (c) adopt regulations on digital accessibility and access to information technology and communication, and promote the responsibility of public institutions to present information and communications on its websites in accessible formats, in accordance with international standards.**

28. The Committee is concerned that television programmes on the KVF public service channel in the Faroe Islands are only subtitled and/or interpreted into sign language if they are considered to be of "major interest and significance in society".

29. **The Committee requests that the Government of the Faroe Islands ensure access, both for people who are deaf and for those who are hard of hearing, to all the programmes broadcast by KVF.**

#### **Situations of risk and humanitarian emergencies (art. 11)**

30. The Committee is concerned at the lack of information from the State party on the involvement by persons with disabilities and their organizations in the elaboration, implementation and evaluation of the Strategy for Danish Humanitarian Action 2010–2015, and at the absence of specific alert systems or protocols to provide persons with disabilities with the necessary support and protection in the event of risk situations or emergencies.

31. **The Committee recommends that the State party take action to ensure that disaster risk reduction is fully inclusive of persons with disabilities, to develop and enforce accessible alert systems or protocols, and to organize training for rescue and emergency personnel to provide persons with disabilities with the necessary support and protection in the event of risk situations or emergencies.**

#### **Equal recognition before the law (art. 12)**

32. The Committee notes that the Legal Incapacity and Guardianship Act continues to allow for substituted decision-making, thereby restricting the individual's exercise of rights such as the right to vote, access to justice, and consent to medical treatment.

33. **The Committee recommends that the State party review the Legal Incapacity and Guardianship Act and incorporate into legislation supported decision-making, which respects the person's rights, will and preferences, in full conformity with article 12 of the Convention, which includes the individual's right to give and withdraw informed consent for medical treatment, to have access to justice, to vote, to marry and to work.**

#### **Liberty and security of the person (art. 14)**

34. The Committee is concerned at the distinction made by the State party between punishment and treatment, according to which persons considered "unfit to stand trial" on account of their impairment are not punished but are sentenced to treatment. Treatment is a social control sanction and should be replaced by formal criminal sanctions for offenders whose involvement in crime has been determined. The procedure applied when determining whether a person should be sentenced to treatment is not in accordance with the safeguards that a criminal procedure should have if it may result in a sanction being imposed on a person. Sentencing a person to treatment is therefore incompatible with article 14.

35. **The Committee recommends that the State party adopt a policy to initiate a structural review of the procedures used to sanction persons with disabilities when they commit criminal offences. The system should comply with the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence, and the right to defence and to a fair trial.**

36. The Committee is concerned that the Psychiatric Act allows for compulsory hospitalization or treatment in a medical facility in respect of a person with mental health impairments, against her or his will, if the person is considered to be a danger to herself or himself or to others, which amounts to a deprivation of liberty or security on the basis of disability, contrary to article 14 of the Convention.

37. **The Committee recommends that the State party take all necessary measures, including revision of the Psychiatric Act, to ensure that persons with disabilities enjoy**

**the right to liberty and security of person. The Committee recommends that the State party ensure that no one will be detained in any facility on the basis of actual or perceived disability.**

**Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

38. The Committee is deeply concerned at the number of cases of coercive treatment of persons admitted to psychiatric institutions, and at the methods used in the coercive and involuntary treatment of persons with disabilities in psychiatric institutions, in particular the use of straps or belts for more than 48 hours, the use of chemical restraints, or the reportedly frequent application of involuntary electroconvulsive therapy.

**39. The Committee recommends that the State party amend its laws and regulations in order to abolish the use of physical, chemical, and other medical non-consensual measures, with regard to persons with psychosocial disabilities in institutions. It particularly recommends that the State party provide training on treatment in accordance with the Convention to medical professionals and personnel in care institutions and other similar institutions on preventing torture and cruel, inhuman or degrading treatment or punishment.**

**Freedom from exploitation, violence and abuse (art. 16)**

40. The Committee is concerned at reports showing the level of abuse, exploitation and violence, including domestic violence, to which various categories of persons with disabilities are being exposed, and at the limited number of shelters accessible to victims of such acts, as well as the lack of training of police and other interlocutors. The Committee is also concerned about the lack of available disaggregated data on the reports of abuse, exploitation and violence by persons with disabilities, and on their outcomes.

**41. The Committee recommends that the Governments of Denmark, the Faroe Islands and Greenland ensure that violence and abuse against all persons with disabilities is duly reported and investigated; that the necessary support for victims is available, including accessible hotlines, shelters, services and complaints mechanisms; and that the issue is addressed in national training courses for personnel working in health and medical care, schools, the police force and the judiciary. The Committee also recommends that the Governments collect disaggregated data and statistics on the reports of abuse, exploitation and violence by persons with disabilities, and on their outcomes.**

**Living independently and being included in the community (art. 19)**

42. The Committee is concerned about the increased construction, by municipalities, with State-guaranteed loans, of large institution-like residences for persons with disabilities, with thirty to sixty or even more residents, often outside city centres. It is also concerned about the recent surveys indicating the limited possibility for persons with disabilities to freely choose where to live, which has included instances of forced relocation.

**43. The Committee recommends that the State party end the use of State-guaranteed loans to build institution-like residences for persons with disabilities; that it amend the legislation on social services so that persons with disabilities may freely choose where and with whom they live, while enjoying the necessary assistance to live independently; and that it take measures to close existing institution-like residences and to prevent the forced relocation of persons with disabilities, in order to avoid isolation from the community.**

**Freedom of expression and opinion, and access to information (art. 21)**

44. The Committee is concerned that certain groups of deaf persons, in particular children born deaf who have been implanted with cochlear implants, are reportedly prevented from learning and communicating in Danish Sign Language. The Committee is also concerned that the recent amendment to the Danish Language Council Act does not promote Danish Sign Language through research or training.

**45. The Committee recommends that the State party recognize the right of all deaf persons and born deaf persons to have the possibility to learn and communicate in Danish Sign Language, regardless of medical treatments undergone; take effective measures to promote Danish Sign Language as a communication method, without necessarily resorting to speech therapy; carry out research into Danish Sign Language, including the development of a Danish Sign Language dictionary; and promote the use of Danish Sign Language in all areas of deaf persons' lives to ensure their participation in particular in employment, education and cultural life. The Committee furthermore recommends that the Government of the Faroe Islands recognize Faroese sign language as an official language.**

46. The Committee acknowledges that Braille is an important communication tool for blind persons in education and employment. It is, however, concerned that education in Braille is not systematically provided to all blind pupils, as they are scattered and few in number. The Committee is also concerned that the decentralized structure and responsibility of municipalities may not be appropriate to maintaining such a specialized tool, and that the State party perceives a risk of dilution of knowledge in education with specialized support, as indicated during the dialogue.

**47. The Committee recommends that the State party establish a Braille Council tasked with promoting, preserving and enhancing knowledge and use of Braille as a communication tool for blind persons, including in education.**

48. The Committee is concerned that the State party does not effectively guarantee provision of information to people with intellectual and mental disabilities, in accessible, alternative and augmentative modes and formats of communication.

**49. The Committee recommends that the State party accord equal recognition to the development and promotion of augmentative and alternative modes of communication that are accessible to people with intellectual and mental disabilities. The State party should take appropriate measures to ensure that all actors are familiar with the established standards for using augmentative and alternative modes of communication and should put into place effective monitoring procedures that prevent acts of substituted information and communication, especially in decision-making mechanisms regarding people with intellectual and mental disabilities.**

**Respect for privacy (art. 22)**

50. The Committee is concerned that psychiatric hospitals are allowed, under the Psychiatric Act, to transfer strictly private and confidential information to third parties without the consent of the person concerned.

**51. The Committee recommends that the State party amend the Psychiatric Act so as to prohibit the transfer of the private and confidential information of patients in psychiatric hospitals to third parties without the consent of the person concerned, in order to comply with the principle of respect for privacy.**

**Education (art. 24)**

52. While noting a Government reform to promote inclusion of children with disabilities in the general education system, the Committee is concerned at the lack of clarity regarding the extent to which pupils with disabilities can receive adequate support and accommodation to facilitate their education, and regarding the discrepancies in accomplishment rates between pupils with and without disabilities in elementary, secondary and higher education.

**53. The Committee recommends that the State party amend its legislation to ensure the inclusion of all children with disabilities in the mainstream education system, with adequate support and accommodation, in particular through the provision of adequate training to teachers and other employees in the school system in all parts of the Kingdom of Denmark, in order to ensure quality education for pupils with disabilities. The State party should take measures to address discrepancies in accomplishment rates between pupils with and without disabilities at all levels of education.**

54. The Committee is concerned at reports that children in need of more than 9 hours of special education per week may submit a complaint to the Special Education Board, unlike children in need of fewer than 9 hours of special education per week who cannot submit a complaint to an independent authority regarding a lack of adequate educational support.

**55. The Committee recommends that the State party amend its legislation to ensure that all children with disabilities can submit a complaint to an independent authority if they do not receive adequate educational support.**

**Health (art. 25)**

56. The Committee is concerned at information indicating that persons with psychosocial disabilities have a life expectancy that is 15 to 20 years shorter than persons without psychosocial disabilities.

**57. The Committee recommends that the State party ensure that persons with disabilities, in particular persons with psychosocial disabilities, have equal access to the highest attainable standard of health, including by providing adequate and accessible health services needed by persons with disabilities, and by providing training to health professionals and officials in the public health authorities, including on the right to free and informed consent.**

**Work and employment (art. 27)**

58. The Committee notes with concern that while the Act on the Prohibition of Discrimination in the Labour Market prohibits direct and indirect differential treatment on the grounds of disability, neither the general labour legislation nor collective labour agreements stipulate clear obligations on employers to afford reasonable accommodation in the labour market, which may be among the sources of a prevailing employment gap between persons with disabilities (44 per cent of whom are working) and persons without disabilities (78 per cent of whom are working).

**59. The Committee recommends that the State party take all necessary measures to significantly increase, as soon as possible, the percentage of persons with disabilities working in the open labour market, including amendments to the general labour legislation so that it imposes clear obligations on employers to afford reasonable accommodation to employees with disabilities.**

**Participation in political and public life (art. 29)**

60. The Committee is concerned that under the Constitution, the Parliamentary Elections Act and other electoral laws, and the Guardianship Act (section 6), persons under guardianship are not allowed to vote or to stand for election in parliamentary, municipal, regional or European Parliament elections, or referendums. The Committee is also concerned that election materials are reportedly rarely accessible to blind persons or to persons with learning and intellectual disabilities, that polling stations are often not physically accessible, that ballots may not be accessible to blind persons, and that persons under guardianship may not be able to freely choose the kind of voting assistance that they would wish to use.

**61. The Committee recommends that the State party amend the relevant laws, including the Parliamentary Elections Act and other laws governing municipal, regional and European Parliament elections, so that all persons with disabilities can enjoy the right to vote and stand for election regardless of guardianship or other regimes. It also recommends that the State party ensure, through legislative and other measures, the accessibility of ballots and election materials, and of polling stations, and that it ensure that freely chosen, adequate and necessary assistance is provided in order to facilitate voting by all persons.**

**Participation in cultural life, recreation, leisure and sport (art. 30)**

62. The Committee is concerned that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which allows access to published material to blind persons, persons with visual impairments or persons who have other difficulties in accessing printed materials.

**63. The Committee encourages the State party to take all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

**C. Specific obligations (arts. 31–33)****Statistics and data collection (art. 31)**

64. While noting the efforts to collect statistical data on persons with disabilities in Denmark, including IT-based data collection on assistance and benefits to persons with disabilities in Greenland, and general data collection in the Faroe Islands, the Committee regrets the low level of disaggregated data on persons with disabilities.

**65. The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by gender, age, disability and region; enhance capacity-building in this regard; and develop gender- and age-sensitive indicators, paying due regard to the need to move from a medical-based to a human rights-based approach to disability.**

**National implementation and monitoring (art. 33)**

66. While noting the operation of the State party's Interministerial Committee, the Committee is concerned that it seeks inputs from representative organizations of persons with disabilities in Denmark only occasionally, and that there is an absence of coordination with the representative organizations of persons with disabilities in the Faroe Islands and Greenland. The Committee is also concerned at the absence of coordination and of independent monitoring mechanisms in the Faroe Islands.

67. The Committee recommends that the State party enable civil society and, in particular, representative organizations of persons with disabilities, to fully and regularly participate in monitoring of the implementation of the Convention. The State party should also take the necessary measures for the establishment or designation of a coordination mechanism, and of an independent monitoring mechanism, in the Faroe Islands. The Committee also recommends that the Government of the Faroe Islands establish a human rights institution for the promotion and protection of human rights, in accordance with the Paris Principles.

#### **Follow-up and dissemination**

68. The Committee requests that the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, provide information on the measures taken to implement the Committee's recommendation as set out above in paragraph 21, which concerns the forced hospitalization and treatment of children in psychiatric hospitals.

69. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Governments and Parliaments, officials in relevant ministries, local authorities, and members of relevant professional groups such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

70. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

71. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

#### **Next report**

72. The Committee requests the State party to submit its combined second and third periodic reports no later than 24 August 2019, and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the combined reports of a State party. The replies of a State party to such a list of issues constitute its next report.

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