

PERMANENT MISSION OF DENMARK
TO THE
UNITED NATIONS OFFICE AT GENEVA

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The Permanent Mission of Denmark to the United Nations Office at Geneva presents its compliments to the Secretariat of the Special Procedure Branch, Office of the High Commissioner for Human Rights, and has the honour, referring to the Secretariat's communication dated 16 October 2020 (ref. JUA DNK 3/2020), to transmit herewith Denmark's reply to the Joint Urgent Appeal from the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and the Special Rapporteur on minority issues.

The Permanent Mission of Denmark avails itself of this opportunity to reiterate to the Secretariat of the United Nations, Office of the High Commissioner for Human Rights, the assurances of its highest consideration.

Geneva, 11 January 2021



Mrs Beatriz Balbin
Chief, Special Procedures Branch
Office of the High Commissioner for Human Rights
GENEVA

The Danish government has received a joint urgent appeal from three UN Special Rapporteurs (ref. UA DNK 3/2020 dated October 16, 2020) regarding the Danish initiative to counteract parallel societies generally and the action taken in relation to the social housing estate in Mjølnerparken specifically.

The Danish government is pleased to submit its comments to the issues raised in the appeal.

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

Concerns regarding the Act on Social Housing etc.

As many others countries in Western Europe, Denmark has experienced social and ethnic segregation in social housing estates. The first political initiatives were taken already in the early 90s. However, the efforts were not able to prevent further segregation and social deprivation of some areas. Therefore, the Government intensified efforts to curb the negative development by launching three consecutive action plans:

1. In 2004, the Government launched the Strategy against ghettoization identifying the most vulnerable areas. It established a non-governmental expert group that submitted a rapport with recommendations concerning a transformation of the most vulnerable areas. The rapport was published in 2008.
2. In 2010, the Government published the Plan “Bring the Ghettos back into the Society” with a focus on initiatives aiming at changing the composition of residents by trying to attract people in employment to rent vacant apartments.
3. Recognizing that the efforts implemented in the vulnerable areas were not as successful as expected the Government in 2018 launched the Plan “One Denmark without Parallel Societies (*Ét Danmark uden parallelsamfund*)”¹ which included more comprehensive initiatives on the social and physical transformation of the vulnerable areas.

¹ Ét Danmark uden parallelsamfund, Available in Danish at: <https://www.regeringen.dk/publikationer-og-aftaletekster/%C3%A9t-danmark-uden-parallel-samfund/>

The 2018-plan needs to be considered as a further step in the efforts of several past Governments to reintegrate the most vulnerable areas into the surrounding neighborhoods and society at large.

The main issue in the most vulnerable areas is a uniform composition of residents and monotonous building style.

Firstly, these areas are characterized by high unemployment rates, high crime rates, low levels of education, low personal incomes and higher concentrations of tenants from non-Western countries. The concentration of vulnerable groups has proven counterproductive in preventing social segregation.

In this regard, the Government can refer to The Statement on Parallel Societies in Denmark (*Redegørelse om parallelsamfund*)² published by The Ministry for Economic and Interior Affairs in 2019. It showed *inter alia* that more than 40 pct. of tenants aged 18-64 years in the vulnerable areas were neither employed nor studying. The national average was 13,5 pct. Further, the crime rate in the hard ghetto areas was three times higher than national average. Nearly 60 pct. of tenants in the vulnerable areas and 70 pct. in the hard ghetto areas were non-western immigrants and their descendants. At national level this group accounted for 8,7 pct. of the population.

Secondly, part of the reason for the social problems in the vulnerable areas is considered to be the high prevalence of social family dwellings. Therefore, one of the important elements of the plan is to attract private investors to construct privately owned homes in order to transform the vulnerable areas with a monotonous building style and uniform composition of residents into areas with varying forms of housing and a social mix of residents.

The purpose of the initiatives to counteract parallel societies is to address certain areas where the challenges of unemployment, low education, high crime rates and insecurity are so massive that it is necessary to undertake a transformation of the areas both physically and socially. The overall ambition is to ensure that all persons in Denmark, regardless of their background and birth-place, will grow up with the same level of opportunities in life.

The concept of social mix is not a new one. It has a long history in both theory and practice. It suggests that people living in a disadvantaged area are exposed to negative social externalities from disadvantaged neighbors, lacking positive social externalities from advantaged neighbors and/or stigmatized because their share in the area is past a threshold. Literature and cases suggest that negative social externalities are frequently being generated among disadvantaged neighbors, especially youths. The lack of social ties with employed and higher educated people can also affect chances to find a job. Several studies support

² Redegørelse om parallelsamfund 2019, Available in Danish at: [https://trmfilo1/VDI-Redirect\\$/eta/Downloads/redegoerelse-om-parallelsamfund_web_final-a.pdf](https://trmfilo1/VDI-Redirect$/eta/Downloads/redegoerelse-om-parallelsamfund_web_final-a.pdf)

the hypothesis that these limited social networks reduce economic opportunities for the disadvantaged. A better social mix of residents will provide role models for the youth and assist new generations in breaking the negative social cycle in the vulnerable areas. Removing place-based stigmatization will make a disadvantage area more attractive to advantaged neighbors.

Therefore, the Government's vision is to transform the most vulnerable areas into areas with mixed tenure and housing diversity and for the areas to be integrated in the surrounding neighborhoods.

The 2018-plan is a framework that requests the municipality and the housing associations to make a common development plan in order to reduce the share of social housing family dwellings in the vulnerable area to a maximum of 40 pct. In this regard, the municipality and the housing associations have the right to decide how to achieve the strategic 40 pct.-objective. For instance, the objective can be achieved through sales, establishment of (new) private dwellings or commercial buildings, reconstruction or demolitions. The local community can use one or more of the options established by law. As long as the plan agreed locally achieves the 40-pct.-objective, the Government is not allowed to intervene and suggest specific measures concerning sale, reconstruction or demolishing.

According to Section 61 a (1) of the Act on Social Housing etc.³ any social housing area with more than 1000 inhabitants that meets two of the following four criteria is defined a vulnerable area:

1. The share of inhabitants aged 18–64 neither in employment nor education is higher than 40%, as an average over a span of 2 years.
2. The share of inhabitants of aged 30–59 with only primary education or less is greater than 60%.
3. The average gross income for inhabitants aged 15–64 excluding those in education is less than 55% of the average gross income for the region in question.
4. The share of inhabitants aged 15 and over convicted for infractions against the penal law, weapons law or drug regulations is at least three times the national average over a span of 2 years.

“Ghetto areas” meet at least two of the criteria 1 to 4 and comply with additional criterion: the share of immigrants and their descendants from non-Western countries is higher than 50%, cf. Section 61 a (2) of the Act on Social Housing etc.

³ Consolidation act no. 1203 of 8 August 2020 on social housing (Almenboligloven). Available in Danish at: <https://www.retsinfor-mation.dk/eli/lt/2020/1203>

Areas that have been on the ghetto list for the past four years will be categorized as hard ghetto areas, cf. Section 61 a (4) of the Act on Social Housing etc.

It is important to emphasize that many development plans do not include demolition or sale of the social estates. Even in the same municipality, there are different strategies depending on the particular characteristics of each area.

For instance, Copenhagen Municipality and the Housing Organization Bo-Vita have decided to sell two out of four buildings in Mjølnerparken. In Tingbjerg, which also is a hard ghetto in Copenhagen, the development plan does not include sale of the social dwellings.

If a development plan suggests a partial sale of the social estate to a private buyer, the municipality shall state the rental criteria for that estate and tenants have to meet these criteria, if they want to rent a dwelling in the estate that has been sold to a private investor, cf. Section 27 c (1) of the Act on Social Housing etc. Usually, these criteria are related to employment or studying.

If a sold estate is located in a hard ghetto area, any housing seeker who does not meet the criteria set by the municipality has to be rejected. On the other hand, a tenant who does not fulfill the criteria has to be terminated. The origin of the housing seeker or tenant (Danish, western or non-western) does not make any difference in this regard.

In other vulnerable areas, which are not categorized as hard ghettos, there is no obligation to terminate the contracts with the tenants, but if the private buyer so requests, the housing organization can terminate the contracts. The reason behind the obligation to terminate a contract or reject a housing seeker in a hard ghetto area in case of sale of the estate is to make the estates attractive for private investors.

In any case, it is important to emphasize that no tenants can be terminated on the basis of their origin. Contracts can only be determined in cases of renovation, if the buildings are being sold or demolished – and only if the tenants are offered an alternative and adequate dwelling, i.e. every tenant whose contract is terminated is guaranteed alternative adequate accommodation. No tenant can be evicted without being offered adequate dwelling in accordance with the Law.

If relocation of tenants is required in order to implement the development plan, the property owner is required, without unnecessary delay, to offer the tenant another dwelling within the municipality, cf. Section 85 (2) of the Act on Renting Social Dwellings.⁴ The accommodation must be of adequate size,

⁴ Consolidation act no. 928 of 4 September 2020 on Renting Social Dwellings (Lov om leje af almene boliger). Available in Danish at: <https://www.retsinformation.dk/eli/lta/2019/928>

location and quality, and the property owner must offer to cover the tenants reasonable and documented expenses.

If relocation is based on sale of a part or the whole building in a hard ghetto area, the housing organization has to offer an alternative and adequate dwelling within the same (hard ghetto) area.

The Danish Government regrets that the Government cannot provide specific information concerning the sale of Mjølnerparken or the current court case Mjølnerparken vs. The Ministry of Housing, as the case is still pending before the Danish Courts.

The Government, however, can inform that according to the Danish Law filing a case against an authority does not suspend the decision that is disputed, unless this is stated by law. This is not the case with the legislation concerning the 2018-plan. However, after a request from one part in the Case, the Court can decide to suspend the decision or similar, if the Court finds that necessary.

The Government shall emphasize, that since the introduction, the lists of vulnerable areas have focused on the challenges, giving municipalities and housing associations an incentive to work more vigorously with housing efforts. At the same time, the list of vulnerable areas acts as a tool that clearly delimits and targets various actions in terms of government funding etc.

The latest report from June 2020⁵ stated that there was a positive development in the period 2018-19. Among other things, the Report stated that the number of vulnerable area has decreased. The Report detected a positive development of indicators concerning employment, education and average income. The report also showed that there are integrational issues in the areas.

With the action plan on housing initiatives to counteract parallel societies it can be noted that the municipalities and housing associations have already begun to re-think areas scaling up efforts to improve areas at risk. At December 2, 2020 the Ministry of Housing published an updated list of vulnerable areas, ghetto areas and hard ghetto areas. It is remarkable that the number of ghetto area compared with the list form 2019 decreased from 28 to 15 areas. In the same time, the number of vulnerable areas decreased from 40 to 25 areas.

Concerns regarding acquisition of Danish citizenship

In relation to the questions on citizenship, it is emphasized that, from 1 January 2019 it has been a condition for acquisition of Danish citizenship by naturalization that the applicant participates in a municipal ceremony signing a pledge to abide by Danish laws, including the Constitutional Act of the Realm of Denmark, and to respect Danish values and principles of law, including the Danish democracy. Furthermore, from 1 January 2019 it has been a condition

⁵ Redegørelse om parallelsamfund 2020, Available in Danish at: <https://www.trm.dk/publikationer/2020/redegoerelse-om-parallelsamfund-2020/>

for acquisition of Danish citizenship that the applicant ex-changes a handshake with one or more representatives from the municipal council without gloves, flat of the hand to flat of the hand, to mark the moment where the applicant be-comes a Danish citizen.

When drafting the 2018 Act, it was carefully considered whether a condition to exchange a handshake in order to acquire Danish citizenship would be compatible with the obligations set out in the relevant international conventions, including the European Convention on Human Rights Article 14 (prohibition of discrimination) in combination with Article 9 (freedom of religion). It was the assessment of the Danish Government that such a condition is in conformity with Denmark's international obligations, and this assessment still stands.

The handshake requirement at municipal ceremonies has, however, been suspended since April 2020 following the Danish health authorities' recommendations related to COVID-19. The handshake requirement is therefore not delaying acquisition of Danish citizenship.

2. Please provide information on what steps have been taken to ensure that initiatives to redevelop or dismantle housing in “ghetto” areas comply with international human rights obligations to respect, protect, and ensure rights to adequate housing and non-discrimination and include information on the measures taken to ensure the participation of the people affected in the development of such plans and in any relocation involved.

The Danish Government is truly committed to respecting all international rules and standards concerning the right to housing.

The term "forced evictions" is usually defined as the permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land, which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. However, the prohibition on forced evictions does not apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁶ The Danish Government does not find any initiative named in the 2018-plan to be non-compliant with the Denmark's international obligations.

⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, para 3.

The concept of tenant democracy is the core of the social housing in Denmark. It allows tenants to participate in the running and administration of social estates and housing associations.

Each Housing Association is managed by a board, of which the majority are tenants. The Housing Associations boards are usually elected at an annual meeting of all tenants or of all members of estate boards in the association.

Housing Associations consist of one or more units (*boligafdeling*). At a yearly tenant meeting, the tenants of each unit elect a tenant board, approve the level of the rent and the budget. The tenants must also approve major refurbishing and maintenance projects and decide on local estate rules.

A development plan, cf. Section 168 a of the Act on Social Housing etc., is usually a complex document consisting of various elements. The purpose of the development plan is to show how the objective concerning reducing the share of non-profit housing stock in the hard ghetto area to 40 percent is to be achieved.

A development plan is not (only) about demolition or about partial sale of social estates in a vulnerable area. It is a reconstruction and redevelopment project with the purpose of increasing the quality of the social estate, changing the infrastructure, providing new forms of housing, establishing or improving green areas and connecting the area with the surrounding neighborhoods.

It is important to emphasize that a development plan only suggest how to achieve the aim concerning reduction of the share of social dwellings in the area, for instance by reconstruction of buildings, renovation of dwellings, infrastructure projects, establishing of green areas, establishing of new private dwellings or commercial estate, relocation of tenants etc. It does not imply decision on the specific initiatives. Any specific initiative, incl. demolition or selling of buildings, has to be dealt with after approving the plan in accordance with the rules in the Act on Social Housing applicable to the initiative.

The tenants are expected to be interested in the process leading to the creation of a development plan. Therefore, the Housing Association and the Municipality ought to consider how to inform tenants about the plan. However, the Housing Association and the Municipality shall inform the Tenant Board about the development plan no later than at the moment of the submission of the plan to Danish Transport, Construction and Housing Authority.

Nevertheless, the final decision concerning development plan is a common decision made by the Housing Association and the Municipality. Hereafter, the plan has to be approved by the Minister for Housing.

After approval, the development plan has to be implemented. As part of the implementation process decisions regarding demolition or selling a part or the social estate can only be made by the Housing Associations Board and approved by the Municipality and the Ministry of Housing, cf. Section 27 in Act on Social Housing. However, the tenants will usually be involved in the process because it implies that the tenant affected by the decision has the right to be relocated within or outside the area.

Danish legislation ensures a genuine consultation with any tenant affected by demolition or sale of a part of the social estate. The purpose of this procedure is finding the best alternative accommodation for the tenant.

According to Section 86 (2) in the Act on Rent of Social Dwellings, any affected tenant is guaranteed an alternative and adequate dwelling. If the tenant does not think that the requirements set in Section 86 (2) are met by the housing organisation, the housing organisation shall seek redress from the courts. This procedure provides the tenant with further legal guarantees.

Therefore, the Government does not find that the sale of buildings in Mjølnerparken or any other area may constitute a violation of the right to an adequate housing recognized in article 11 of ICESCR.

The standards set in Section 86 (2) in the Act on Rent of Social Dwellings meet all requirements named in UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing⁷.

Further, the Government find that rules on termination of the contract complemented by the rules on alternative and adequate accommodation, cf. Section 86 (2) in the Act on Rent of Social Dwellings, are in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality⁸.

3. Please provide detailed information concerning alternative accommodations for those individuals residing in “ghetto” areas subject to demolition.

According to Section 85 (1) in the Act on Rent of Social Dwellings, the property owner can terminate the contract if he/she intends to demolish the building or if he/she intends to reconstruct the building in a way that the dwelling must be vacated.

⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23

⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22

The rule is general, i.e. it is applicable for any building owned by a housing organization. There is no distinction between ghetto areas or any other area with social housing.

The housing organization's right to terminate the Contract is complemented by an obligation to offer the tenant an alternative and adequate dwelling.

According to Section 86 (2) in the Act on the Rent of Social Dwellings an alternative and adequate dwelling is a dwelling placed in the same municipality and with adequate size, placement, quality and equipment. Adequate size means that the dwelling has either the same number of rooms as the tenants current dwelling or one room more than the number of persons living in the current dwelling. Further, the Housing Organization is obliged to cover reasonable and documented costs connected with the tenants moving to the new dwelling.

Further, in case of relocation on basis of sale of a social estate in a hard ghetto area, an alternative and adequate dwelling, as mentioned in Section 86 (2) in the Act on the Rent of Social Dwellings, has to be located within the same area as the current dwelling, cf. Section 85 (1) in the Act on the Rent of Social Dwellings.

Usually, a housing organization is running thousands of social dwellings. The tenants on the list for relocation are prioritized ahead of the regular waiting list, which means that the opportunities of finding an adequate dwelling are reasonable. However, if the tenant does not find that the alternative dwelling complies with the requirements set by Section 86 (2), the housing organization cannot evict the tenant without redressing the case to the Courts.

4. Please provide detailed information that justifies defining “ghettos” as areas with over 50 percent of residents with “non-western” nationality or heritage.

During 1980's and 1990's, the Danish Government focused on social programs to further a social sustainability agenda in the vulnerable areas. However, these programs were not able to revert the negative development.

Therefore, in accordance with international transformation strategies of social vulnerable area, the Government moved on to more comprehensive programs. The strategy to combat parallel societies is an area-based approach to the regeneration of vulnerable areas. These areas have been identified as social housing estates with more than 1000 tenants and classified using specific criteria of unemployment, educational level, personal income and crime rate.

The non-western tenants criterion is added because the earlier initiatives targeting the vulnerable area suggested that a high concentration of non-western tenants is a challenge to the transformation of mono-tenure social housing estates into mixed tenure communities, since it can pose an integrational issue in addition to the socio-economic issues.

The Government supports tenure diversification in order to integrate the disadvantaged part of the population living in the vulnerable areas, including second and third generation of non-western immigrants. The aim of promoting mixed tenure communities, in which homeowners and tenants live alongside each other, is to create sustainable communities with equal opportunities.

The Government expects that improvement of residential environments will reintegrate disadvantaged housing areas into society.

The Government shall emphasize that Section 61 a of Act on Social Housing is a tool helping the Government to identify the most vulnerable areas. The criterion concerning non-western immigrants and their descendants can only be used in order to categorize a social housing area. Section 61 a of Act on Social Housing is not about determination of individual rights on basis of origin.

The concepts of "Immigrants and descendants" and "Western and non-western countries" in the Act of Social Housing originate from Statistics Denmark, which have used this concept since 2002. Originally, the basis for the definition was the United Nation definition of "more and less" developed countries.

Western countries are all 27 EU countries and United Kingdom, Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland, Vatican State, Canada, USA, Australia and New Zealand. All other countries are non-western countries.

The distinction between western and non-western countries is a binary classification of countries made by Statistics Denmark on basis of immigrants contribution to the society and social conditions and cause of immigration, inclusive type of residence permit and taking into account special rights guaranteed for immigrants from Nordic Countries, EU and EEA Countries. The purpose of the classification is to provide information on the socio-economic impact of immigration in Denmark.

The distinction between western and non-western countries has nothing to do with a country's geographic location, political system, religion, economy or culture.

For instance, the criterion "employment rate" in Section 61 a (1) on the Act of Social dwellings can be considered as an indicator for contribution to the society – a criteria which the definition western/non-western immigrants is also

based on. This connection does not depend on the immigrants' religion or race.

The Government considers the concept of western/non-western immigrants as an objective and necessary element in regulation of immigration and integration policy and further economy and finance policy. Reference is made to an economic analysis from June 2020 about the immigrants' contribution to the public finance in 2016 (*Indvandreres nettobidrag til de offentlige finanser i 2017*⁹) published by the Ministry of Finance. According to the analysis based on Statistic Denmark's definition of immigrants, their descendants and persons with Danish origin, non-western immigrants and their descendants' contribution margin was negative (-33 billion DKK), while the western immigrants and their descendants' contribution margin was positive (7 billion DKK). The analysis confirms that the concept of western/non-western immigrants is both a useful and objective concept.

The Government does not find that the criterion "western/non-western immigrants" has the effect of placing particularly persons of a certain origin or religion at a disadvantage. As mentioned above, the distinction is not applied with a view to determining individual rights or obligations. Moreover, it is important to emphasize that the criteria concerning non-western tenants is an additional criterion, which is only relevant if an area meets two or more requirements stated by the Law (unemployment rate, education level, crime rate and personal income). Even an area with 100 pct. non-western immigrants and descendants would only be categorized as a vulnerable area or a ghetto area if at least two of four basis criteria are met.

After identification of the hard ghetto areas the criterion is not applicable in relation to other measures in the 2018-Plan, which are applicable in general to all tenants not containing regulations differentiating between persons or groups on the ground of their race or ethnic origin.

5. Please provide detailed information justifying the establishment of different mandatory education standards for minority children of non-Danish origin than children of Danish origin. Furthermore, please provide detailed information to explain how punishment for parents' non-compliance with these standards do not result in racial discrimination.

In Denmark, it is the belief that all children should be given equal opportunities to do well in school and later on, in life. Research shows that social vulnerability affects the child early: Already at the age of three, large gaps – corresponding to up to two years – exist between children's social, linguistic, and early mathematical competencies. Early, targeted measures towards better language development of children is of vital importance to close this gap. At the

⁹ https://fm.dk/media/18088/oea_indvandreres-nettobidrag-til-de-offentlige-finanser-i-2017.pdf

same time, research shows that early interventions to strengthen children's cognitive, social and personal competences are more cost-effective compared to interventions later in life at school or job training. Government statistics show that children from vulnerable housing areas lack behind the national average when it comes to grades in primary school and attending youth education. Moreover, statistics point to the fact that about half of bilingual children do not hold the appropriate Danish competencies when they start school. Children in vulnerable housing areas have a greater risk of not developing age appropriate Danish language competencies compared to children living outside these areas. Children in vulnerable housing areas receive lower math and Danish grades in their 9th and 10th GPA compared to the national average. That counts for children with both a Western and Non-Western heritage (Source: Statistics Denmark, 2018).

Vulnerable housing areas are defined by a set of objective criteria, amongst other things the average level of employment and wealth, the average level of education, the crime rate, etc. Origin is not included in this set of objective criteria.

The mandatory learning program must be organized in accordance with the requirements that apply to ordinary early childhood education and care (ECEC) schemes. Amongst other things this means that the spoken language shall be Danish, and the intervention shall be organized in accordance with the pedagogical curriculum. The staff in the chosen ECECs are to ensure that the children in the mandatory learning program do not feel 'left out' or in other ways feel out-side of the children's community.

In that context, it should be emphasized that the establishment of mandatory learning programs of 25 hours per week for 1-year-olds in vulnerable housing areas who are not already in ECEC does not set different mandatory education standards for minority children of non-Danish origin than children of Danish origin.

A recent report conducted by the Danish Evaluation Institute for the Ministry for Children and Education monitors the municipalities' implementation of the law on mandatory learning programs. The report shows that municipalities mainly have chosen the mandatory learning program to be placed in ECECs that 1) are close to the family's house of residence, 2) have employed staff that are used to working actively with linguistic development of children, 3) are able to convert the 25 hours into a full-time place in the ECEC. The report shows that the staff have not experienced it as a difficulty to integrate the children on equal grounds with the rest of the children in the ECEC.

If parents choose not to enroll their children in the mandatory learning program, they can choose to conduct the efforts at home. That will require, how-

ever, that the parents are able to provide for their children's linguistic development in Danish etc. In case the parents neither enroll their child in the learning program nor have the ability to support their children's Danish language skills and development in their own home, the municipal authorities shall decide to stop the child benefit. The report shows that 34 children have attended or are attending mandatory learnings programs during the period of data collection, which was between 1/10 2019-30/8 2020. The length of the mandatory programs varied between 14 days and 9 months. The report indicates that the families choose to convert the mandatory learning program into an ordinary place in the ECEC in most cases. The municipalities conducted outreach efforts towards the families, informing them of the mandatory program and the benefits of enrolling their children in ECEC, in 778 cases. In 97 cases, it was allowed for families to conduct the mandatory learning programs at home. In 15 cases, the municipal authorities have decided to stop the child benefit. In November 2018, 965 1-year olds lived in vulnerable housing areas. 75% of these were in ECEC. In 2019, this number was 939 children, corresponding to 80% in ECEC.

The Ministry for Children and Education found that municipalities have intensified their efforts to reach out to families in vulnerable housing areas, informing the families of the benefits of enrolling their children in ECEC as regards language stimulation, socio-emotional development and well-being of the children. The intensified outreach effort has meant that a large number of families have decided to enroll their children in ECEC from the day they turn 1 year instead of choosing the mandatory learning programs.

When drafting the Act on mandatory learning program, it was carefully considered whether the establishment of mandatory learning program for 1-year-olds living in a vulnerable housing area would be compatible with the obligations set out in relevant international conventions, including the European Convention of Human Rights. It was the assessment of the Danish Government that the establishment is in conformity with Article 14 (Prohibition of discrimination) in combination with Article 1 in Protocol no. 1 (Protection of property) in the European Convention on Human Rights. It was the assessment that the establishment is justified in the legitimate purpose of ensuring children's linguistic development, their formation, and their readiness to learn, and that the means do not go further than necessary in order to pursue the aimed purpose.

6. Please provide information on what steps have been taken to ensure, in line with all relevant international human rights standards, equal protection of the right to freedom of movement for children traveling to their countries of ethnic or national origin or descent.

Act. no. 1542 of 18 December 2018 (the "2018 Act") amended the Danish Passport Act introducing Section 2(1)(5) which has the following wording in English translation (unofficial):

“2(1) The Police can refuse to issue a passport to a Danish citizen or withdraw an already issued passport in the following instances:

(...)

(5) If there is reason to believe that said child would otherwise be sent abroad to conditions seriously endangering the health or personal development of the child.”

The said act also introduced Section 215 a in the Danish Penal Code. In English translation (unofficial), the section has the following wording:

“215 a A fine or imprisonment for a term not exceeding 4 years is imposed on any person who sends his or her child abroad to conditions seriously endangering the health or personal development of said child or allow for his or her child to participate in such stays abroad.”

Both sections came into effect 1 January 2019.

It is important to emphasize that the abovementioned measures apply to the population in general. They do not apply only to people or groups of people of non-western origin.

Furthermore, it should be stressed that the two sections do not limit or criminalize travels to countries abroad in general. The crucial part of the sections is whether the child is sent to (or participates in) a stay abroad “seriously endangering the health or personal development of the child”.

Also, with respect to Section 215 a, of the Danish Penal Code it is important to note that it is a general condition under Danish criminal law that the acts are carried out with criminal intent in order to be subjected to punishment.

It follows from the preparatory works to Section 215 a, of the Danish Penal Code and Section 2(1)(5) of the Danish Passport Act, that these sections were introduced in order to protect children from the serious and far-reaching consequences, which the child may be subject to if sent abroad to conditions that could seriously endanger the child’s health or development. As an example of such stays abroad the preparatory works to Section 251 a of the Danish Penal Code and Section 2 (1)(5) of the Danish Passport Act mention so-called re-education journeys, i.e. children or young people being sent abroad to religious schools in order to be re-educated. During such stays, there is an elevated risk that the minor will be exposed to neglect or violence, that he or she will not receive proper education and be socially isolated from other children.

It is the opinion of the Danish government that parents have the right to raise and educate their own children and in doing so make decisions on behalf of their children. This includes letting the child travel abroad and participate in events and practices that are culturally different from what the child would be

exposed to in Denmark. However, these rights are not absolute, and parents must therefore not be allowed to exercise these rights in a manner that potentially can jeopardize the health and personal development of the child.

A decision on refusing or withdrawing a passport is carried out by the police on an individual basis solely based on the facts of the case at hand. A decision can be reviewed by the Danish courts.

Also, the validity of a decision to refuse or withdraw a passport is limited to one year with the possibility of being prolonged.

Furthermore, a person who has been refused a passport or who has had his passport withdrawn may under certain conditions apply for a provisional passport under Section 2(3) of the Passport Act. This provision is intended for instance to be used to issue provisional passport with respect to a specific trip where there is no risk that the child will be sent to conditions seriously endangering the health and personal development of the child, e.g. a school trip abroad. Also, the provision can be used in situations where there is such a risk, but where this risk is outweighed by other factors, e.g. serious illness or death among close relatives abroad.

When drafting the 2018 Act, it was carefully considered whether Section 215 a of the Danish Penal Code and Section 2(1)(5) of the Danish Passport Act would be compatible with the obligations set out in relevant international conventions, namely the European Convention of Human Rights. It was the assessment of the Danish Government that Section 215 and Section 2(1)(5) are in conformity with Article 8 (Right to respect for private and family life) and Article 2 in protocol no. 4 (Freedom of movement) of the European Convention of Human Rights. It was the assessment that the measures set out in these sections are justified in the best interest of the child and that the measures do not go further than necessary in order to pursue the aimed purpose.

To the knowledge of the Danish National Police the possibility of refusing or withdrawing a passport with reference to Section 2(1)(5) of the Passport Act has not been used yet. This information is based on a hearing of the individual police districts and subjected to some uncertainty since there can be cases not registered in the case management system at the time the hearing was made.

Furthermore, the Danish Prosecution Service has informed that – based on the data available to the Prosecution Service in November 2020 – six individuals have, since Section 215 a entered into force on 1 January 2019, been indicted for contravening the provision. So far, there has been one conviction while five cases are still pending. These data are submitted with the reservation that there may be cases not registered in the Prosecution Service' case management system at the time the survey was made.

7. Please provide information regarding how many individuals have

been subject to enhanced criminal or other punishments as a result of the laws referenced above.

The Danish National Police have informed that the following enhanced punishment zones have been introduced since the 2018 Act entered into force on 1 January 2019.

Police District	Area	Created	Expired
Østjyllands Politi	Aarhus West	1 October 2020 at 00:01	21 October 2020 at 23:59
Fyns Politi	Vollsmose	25 June 2020 at 20:00	13 August 2020 at 15:00
Sydsjællands og Lolland-Falsters Politi	Area by Motalavej	18 June 2020 at 20:00	25 June 2020 at 20:00
Østjyllands Politi	Gellerupparken	8 June 2020 at 22:00	16 June 2020 at 16:00
Københavns Politi	Nørrebro og Nordvest	15 April 2019 at 16:00	23 April 2019 at 16:00
Københavns Politi	Tingbjerg	15 April 2019 at 16:00	23 April 2019 at 16:00
Københavns Politi	Urban Planen	15 April 2019 at 16:00	23 April 2019 at 16:00
Københavns Politi	Christianshavn	15 April 2019 at 16:00	23 April 2019 at 16:00
Fyns Politi	Vollsmose	1 February 2019 at 18:00	7 March 2019 at 12:00

The Danish Ministry of Justice has requested the Danish Prosecution Service to provide information on how many individuals that have been subjected to enhanced criminal punishment due to a crime having been committed in an enhanced punishment zone (Section 81 c of the Danish Penal Code). The Prosecution Service has not been able to withdraw this data from their data bank. However, a survey among the local District Attorneys turned out that they are aware of two individuals having been convicted with reference to Section 81 c.

8. Please provide information on what steps the government has taken on the Committee on Economic, Social and Cultural Rights' recommendations relevant to this communication, including its paragraph 52 recommendations on L38 and the "ghetto package".

After the examination of Denmark in October 2019, the Committee on Economic, Social and Cultural Rights has made the following recommendations to Denmark:

Paragraph 52 recommendations on L38 and the "ghetto package":

The Committee urges the State party to adopt a rights-based approach to its efforts to address residential segregation and to enhance social cohesion. In this regards, it recommends that the State party:

- a. Remove the definitional element of a “ghetto” with reference to residents from “non-Western” countries, a discriminator on the basis of ethnic origin and nationality;
- b. Assess the impact of the “Ghetto package” on affected communities;
- c. Remove the coercive and punitive elements of law L38;
- d. Repeal all provisions that have direct or indirect discriminatory effect on refugees, migrants, and residents of the “ghetto” areas;
- e. Identify, in meaningful consultation with concerned communities, the necessary support to facilitate their integration; and
- f. Ensure that evictions and rehousing respect human rights standards.

In the following the Government comments on each of the above recommendation. Reference is also made to the previous answers, as some of the topics below have already been covered more substantially.

Re a.:

The Government shall refer to its comments on question 4 above in which the Government has explained why it does not find that the definition of a ghetto area is discriminatory. As stated above the criterion concerning share of non-western immigrants and their descendants is used to classify a social housing area. The criterion does not determine individual rights.

Therefore, the Government does not intend to change the definition of particularly vulnerable housing areas so that immigrants and descendants from non-western countries are no longer included as a criterion.

The reason is that the Government aims at establishing mixed cities and social housing areas that reflect the population throughout Denmark. Therefore, the government measures the large social housing areas on a number of criteria in relation to the rest of the population in Denmark.

It has also been emphasized to the committee that the criterion for residents of non-Western origin is an additional criterion. This particular criterion is only relevant if the residential area meets two or more of the social criteria in the definition of a ghetto area, i.e. a high unemployment rate, low level of education, high crime rate and low personal income.

Re b.:

The government is following the social development of the large social housing areas, and the development in smaller residential areas is also being monitored.

Furthermore, the Danish Government is dedicated to follow up on the impact of the Action Plan from 2018 on initiatives to counteract parallel societies. Every year, the Housing Associations and Municipalities must report to the Ministry of Housing, whether the annual targets in the development plans have

been fulfilled. In addition three independent government representatives have been appointed in order to support the follow-up on the implementation of the agreement.

Finally, the Government is required to publish an annual report on the development in the vulnerable areas.

Re c.:

The Danish Government does not share the Committee's view that sub-elements of L38 have a punitive aspect. The legislation following the parallel society agreement allows a property owner to terminate the lease when the tenant or members of the tenant's household have been sentenced to an unconditional custodial sentence for a number of specified violations of the Penal Code or other law, and when the violation has been committed within one kilometer of the property where the tenant is located.

The purpose of the legal changes is to strengthen the property owners' ability to ensure security in the residential areas by terminating the lease for residents who commit crimes in the area and thus contribute to the general insecurity. Over time, property owners have experienced that they have not been able to terminate these tenants' leases because the crime has not been considered committed in close connection with the tenant's address, even though it was committed in the residential area.

Re d.:

If a foreigner with legal residence in Denmark does not have the opportunity to find a home, he or she has the same access to receive help from the municipality as all other citizens who need housing according to the general principles, cf. the rules of the Social Housing Act.

Re e.:

It is recommended to improve the integration efforts. In general, improved integration is the overall purpose of the parallel society agreement. In relation to housing, this applies by ensuring that socially disadvantaged citizens and people with a foreign background do not live in isolation and in large numbers in vulnerable residential areas.

Financial resources have been set aside in the National Building Foundation (*Landsbyggefonden*) to initiate social activities in vulnerable housing areas with the purpose to strengthen the residents' integration and citizenship commitment in the surrounding Danish society.

Re f.:

It is the municipalities and Housing Associations, who have the responsibility of preparing and implementing the development plans in the so-called hard

ghetto areas. The developmental plans must be approved by the Ministry of Housing and according to the law the residents must be involved during the local decision-making processes. The law ensures that all affected residents are offered alternative and suitable housing if the person's home is sold or demolished.