

**PERMANENT MISSION OF DENMARK TO THE UNITED NATIONS OFFICE  
AT GENEVA**

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Ref. 23/32542

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 8 December 2023 (ref. OL DNK 1/2023), to transmit herewith Denmark's reply to the joint communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom and peaceful assembly and of association 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, 24 April 2024



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



**Response to the Joint Communication from special procedures Ref.:  
OL DNK 1/2023**

First, the Danish Government would like to express our respect and gratitude for your important work on the protection of the right to freedom of opinion and expression and the freedom of peaceful assembly and of association as well as your work on minority issues.

The Danish Government shares your commitment to the protection and promotion of international human rights.

However, the Danish Government does not share your concerns regarding the newly adopted Section 110 e, para. 2, of the Danish Criminal Code expressed in your letter of 8 December 2023 and would like to provide the following response:

In the letter, it is stated that the prohibition is vague and broad and missing a definition of “improper treatment”.

In this connection, please note that according to Danish legal tradition, the preparatory notes (“lovbemærkninger”) – which accompany a legislative proposal – are of great importance in Danish law, as they contribute to ensure a correct understanding of the overall purpose and the content of the individual provisions in the proposal.

The main principles regarding the drafting of preparatory notes are laid down in administrative guidance No. 9964 of 23 November 2023 on legislative quality. The administrative guidance states that the importance of preparatory notes is not only linked to the reading of the legislative proposal and the public debate, but that the preparatory notes also after the enactment of the law have a significant impact on the application of the law in question, since the preparatory notes in practice are attributed great interpretative importance by the administration, the courts and the Parliamentary Ombudsman.

Accordingly, Danish case law extensively refers to preparatory notes as a source of law.

The preparatory notes to the newly adopted section 110 e, para. 2, of the Danish Criminal Code contain an extended description of the content of the prohibition, including the term “improper treatment”, as well as examples of treatments covered by the prohibition.

It thus appears from the preparatory notes that “improper treatment” is defined as acts whereby the scriptures of significant religious importance to a recognized religious community are destroyed or damaged in a derogatory or mocking manner or otherwise physically treated mockingly or derogatorily. Depending on the circumstances, this will include any inappropriate treatment, including burning, soiling, e.g. trampling on or kicking the scripture, that the scripture is poured over with a liquid or wrapped in food, or that the scripture is destroyed, e.g. torn or cut into pieces.

On that basis, the Danish Government does not share your view that the new provision is too vague or too broad. Rather, as the preparatory notes illustrate the amendment of the law has a precise and limited scope.

As you are aware, the bill was introduced in response to the systematic insulting and denigrating burnings of the Quran that have taken place in Denmark. The Danish National Police has reported that during the period from 21 July 2023 to 13 December 2023 there have been 554 registered demonstrations with book or flag burnings in Denmark. Meanwhile, the Danish Security and Intelligence Service (PET) has stated that the terrorist threat has intensified within the already high level due, among other things, to the systematic insulting and denigrating burnings of the Quran.

The purpose of the prohibition, thus, is not primarily to protect religious minorities against hate speech. Hate speech is already a criminal offence under section 266 b of the Danish Criminal Code according to which any person who publicly, or with intent of dissemination to a wide group, issues a statement or other communication threatening, humiliating or degrading persons of a particular group because of their race, colour, national or ethnic origin or religious faith or their handicap or sexuality, gender identity, gender expression or gender characteristics is sentenced to a fine or imprisonment for a term not exceeding two years.

Rather, the purpose of the legislation is, first and foremost, to protect national security. For this reason, the prohibition is placed in the chapter of the Danish Criminal Code concerning, among other things, crimes against the security of the State.

It is the assessment of the Danish Government that the legislation is compatible with Denmark’s obligations under the ICCPR, cf. Article 19(3). The restriction is thus provided by law with sufficient precision, imposed to protect national security and necessary and proportionate for the protection thereof.

Reference is also made to the preparatory notes of the legislative proposal where it is stated that the legislation can be implemented within the framework of Denmark's obligations under Article 10 in the European Convention on Human Rights (ECHR).

Please also note that even though the prohibition contains a maximum penalty of two year's imprisonment, the penalty will, according to the preparatory notes, as a starting point be a fine. In the event of repeated violation, imprisonment may be imposed for a period measured in days (i.e. lower than three months).

The bill was sent in public hearing 25 August 2023 and more than 80 responses were received. Following the public hearing, the Government adjusted the bill in some areas based on the responses.

The bill was introduced in the Danish Parliament 27 October 2023 and underwent the ordinary legislative process in the Danish Parliament. During this legislative process more than 200 written questions from the members of the Parliament were answered.

The bill was adopted on 7 December 2023 and entered into force 14 December 2023.

Finally, it should be noted that the law does not contain a sunset clause. The law, on the other hand, will be evaluated after a three-year period.