

**Report to the
UN Committee on the Rights of the
Child**

*Supplementary report to Denmark's
second periodic report*

The National Council for Children

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DENMARK

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I. Introduction

1. By international standards, Danish children are doing fine – or even extremely fine in most respects. They grow up in a good material environment, with a wide range of day-care facilities, an efficient educational system and a social safety net, which takes care of the weak. Denmark also offers families with children extensive support in the form of maternity leave, parental leave and, to a limited extent, family welfare days when a child is ill. Finally, it deserves mentioning that Danish children grow up in a democratic country, which greatly appreciates humanitarian ideals and values.

2. Nevertheless, children are experiencing recognised problems in a modern welfare society such as the Danish. They might be called “new problems”. They have less to do with the absence of basic necessities of life and more to do with insufficient well-being, poor human relations and growing up under social strains and with a negative social inheritance. Such problems are, for instance, related to today’s way of living: a hectic everyday life, divorces, abuse and social marginalisation.

3. The picture of Danish children’s family conditions is complex, and this is exactly the reason why the National Council for Children has thought it necessary to prepare this supplementary report to the UN Committee on the Rights of the Child. The official report, which was prepared by the Danish government in June 1998, obviously concentrates on the positive aspects of children’s conditions and the advances made since the previous report submitted to the Committee. The supplementary report prepared by the Council will help the Committee gain a better impression of children’s childhood and adolescence in Denmark by describing both positive and less positive aspects.

4. In this connection, it should be pointed out that it is the Council’s opinion that neither Denmark’s first report nor its second report provides a status on the implementation of the Convention on the Rights of the Child in Greenland. Most of the convention’s areas are governed by the Greenland Home Rule Authority’s own legislation, and a description of Danish children’s conditions does not include the family conditions of Greenland children. Nor does this report describe the conditions of Greenland children, because the Council has been established in accordance with Danish legislation and its work focuses on the conditions of children in Denmark.

5. The National Council for Children is a public institution set up on the basis of a decision made by the Danish parliament. The Council is both professionally and politically independent of the government. The tasks of the Council are to ensure children’s interests and rights on the basis of the UN Convention on the Rights of the Child. The Council is a relatively new institution in Denmark. After a three-year trial period (1994-1997), the Council was given permanent status by law in July 1998.

6. The Committee’s final opinion on the rights of the child of 15 February 1995 expresses satisfaction that the Danish government has established a National Council for Children. In this connection, the Committee calls upon Denmark to support the Council financially to “... enable it to carry out an independent investigation of matters regarding children”. This supplementary report expresses such an independent investigation and evaluation of the

conditions for children in Denmark.

7. It is important to point out that this report cannot in any way portray completely children's upbringing in Denmark in the light of the Convention on the Rights of the Child. Even the framework of the scope of the report prevents this. Some areas have been singled out and others have been disregarded or have not been dealt with in detail. One important area which is not described in this report is the conditions of children of ethnic minorities. The reason why this area has been left out is that the subject is dealt with in an alternative report for the UN Committee on the Rights of the Child prepared by the Board for Ethnic Equality and the Danish Center for Human Rights.

II. Implementation of the Convention on the Rights of the Child in Denmark

8. The Convention on the Rights of the Child places states parties under an obligation to make the Convention widely known (Article 42), to transfer the principles of the Convention to their own legislation (Article 4) and to make their reports to the Committee on the Rights of the Child widely available.

9. The establishment of a National Council for Children, using, among other instruments, the Convention as a basis for the Council's evaluation of children's living conditions in Denmark, has been a positive contribution to the implementation of the Convention. The Council uses the Convention as an active tool when analysing children's living conditions, applicable rules and practice and has in doing so contributed to the incorporation of the Convention in both legislation and practice. In co-operation with a couple of local authorities, the Council has embarked on a pilot project to implement the Convention in their policies for children and young people.

10. However, the National Council for Children is of the opinion that Denmark is far from meeting its obligation to inform (Article 42). The Council especially points to the challenge of reaching all children and all relevant professional groups taking care of children in their everyday lives. The Council therefore proposes that

- *lessons in the Convention of the Rights of the Child form a compulsory part of the basic education of all relevant professional education;*
- *relevant communication of the Convention's message to children be ensured through the school system;*
- *the Danish local authorities be informed about the Convention and their obligations in terms of incorporation in practice.*

11. Except for Denmark's reservation (Article 40(2)(b)(v)), the official Danish opinion is that Danish legislation complies with the provisions of the Convention on the Rights of the Child. However, the Convention may be an even stronger guideline to ensure children's interests and rights if its provisions are more consciously and systematically incorporated into applicable

rules and directions. Developments are underway, for instance regarding legislation on patients and social and family law, but they are slow. The National Council for Children is of the opinion that

- *all ministers, committees, commissions, etc., who have an influence on the lives of children, should be under an obligation to make a systematic evaluation of applicable rules and draft legislation on the basis of the spirit and letter of the Convention.*

12. For the past five years, the government has not demonstrated any visible efforts to explicitly include the Convention on the Rights of the Child in its general consideration of children policies or to base its consideration on the Convention. In this connection, it should also be mentioned that the Convention does not form part of the mandate of the Inter-Ministerial Committee on Children despite its revision in 1997. It would not be correct to say that the Convention is the dynamic element of today's children policy in Denmark.

The National Council for Children is of the opinion that

- *Denmark is in need of an overall strategy for children based on the Convention.*

13. The National Council for Children does not find that the Danish government has made Denmark's two reports to the Committee on the Rights of the Child widely available. The reports are not generally known by the population.

III. General principles

14. A number of articles of the Convention on the Rights of the Child highlight the general principles for safeguarding the rights of the child: protection against discrimination (Article 2), the state's obligation to protect the child and its best interests and to ensure that children institutions conform with the standards established by "competent authorities" (Article 3), the right to life, survival and development (Article 6) and respect of the child's views (Article 12).

A. Protection against discrimination (Article 2)

15. *Protection against discrimination* is such an obvious right in a democratic society such as the Danish that it may be difficult to establish any apparent violation. Still, some examples of discrimination of children as a result of national policy and legislation should be shown. The examples concern children and young people from refugee and immigrant families as well as children's conditions in day-care facilities.

16. Research has revealed many instances of discrimination when young people from ethnic minorities apply for a job.

- *Denmark should enforce current legislation against discrimination and take active measures against instances of discrimination.*

17. It is also important to be aware of the consequences Denmark's very decentralised public system has for children's everyday lives. The National Council for Children is of the opinion that the difference between the local authorities' offers and the quality of offers to children is increasing. This difference is probably most predominant when it comes to day-care facilities. But the quality of schools also varies significantly. The same applies to the standards of local health schemes and the quality of social work for children with special needs. The differences are partly attributable to the social and financial basis of the local authorities (rich-poor local authorities) and size, but also to the absence of priorities and opinions about children of ethnic minorities, for instance. The National Council for Children is of the opinion that

- *the Danish government should, to a higher extent than today, advance demands on the local authorities' work for children with a view to ensuring both equality and quality.*

B. Best interests of the child (Article 3)

18. The new translation of the term *bests interests of the child* is gradually gaining a foothold in Denmark and slowly replacing the previous Danish translation. This linguistic innovation also reflects a gradual new recognition and importance of the child's interests. This is evident from the legislation regarding children, which is increasingly motivated by the intention to strengthen the best interests of the child.

19. However, the National Council for Children is of the opinion that Denmark's attempts to give priority to the best interests of the child demonstrate hesitation when it comes to taking the requirement of Article 3 absolutely seriously; that is to regard it as a requirement, which may and should be translated into legislation and put into existing practice. Such hesitation engenders unnecessary uncertainty in, for instance, decisions in connection with divorces of parents and it delays the process of implementing the Convention on the Rights of the Child in Denmark. Denmark has to be more offensive to implement Article 3. The National Council for Children is of the opinion that

- *there is an obvious need for analysis of what, according to Danish tradition, is understood by the best interests of the child from a legal, historical, sociological, educational and psychological point of view. Are the fundamental values and ethical obligations for instance the same?*
- *there is a significant need for an evaluation of the articles about the rights of the child in the Convention – including Article 3 – in relation to the general rights laid down in the European Convention on Human Rights. In a number of areas, the interests of parents and children conflict, and experience shows that the civil rights of parents are often found more important than the best interests of the child.*

20. If such a process was initiated, this would in itself strengthen the efforts made in Denmark to promote the ideas of the Convention. Moreover, Danish official hesitation delays the process of implementation and provides a basis for unnecessary violation of the best interests of the child (as in the case when a Danish court in 1998 allowed the showing of a video of a father's sexual abuse of his child in open court).

C. Right of the child to participation (Article 12)

21. The *views of the child* must be considered and "... the views of the child being given due weight in accordance with the age and maturity of the child". Hence, the child "shall in particular be provided the opportunity to be heard in any proceedings affecting the child". This is how the requirement of Article 12 reads, and it imposes perhaps the most important overall requirement on both legislation and practice regarding the involvement of children. Article 12 expresses the view that children as subjects in their own lives shall have an influence on their lives. This influence may be referred to as participation in decision-making processes, but, of course, it implies degrees of actual autonomy.

22. Children's right to participation in decision-making processes is laid down in various acts governing different sectors in society, and the various provisions do not agree very much. In other words, there is a time lag between the various bodies of law as regards implementation of Article 12. Furthermore, the practice followed in connection with children's right to participation (in decision-making processes) is not consistent.

23. In Denmark, a distinction will often be drawn between three degrees of children's right to take part in decisions:

- joint influence, which means the child has a right to express its view
- participation in decision-making processes, which means that the child has a right to express its view and to give its consent
- self-determination, which entitles to the child to actual legal autonomy.

24. The concept of "participation", cf. Article 12 of the Convention on the Rights of the Child, will often be used as a general term for children's involvement in joint regular decisions made, for instance, by the family, in day-care centres or at school. Hence, the term is an educational reference. But the concept of "participation" will in this context be used as a wider term for the various degrees of independent rights.

25. The rules applying to important areas of children's lives are illustrated below. These are: custody, adoption, rights as a patient and children not taken care of where children's right to participation in decision-making processes has been defined according to age, school where a statutory objects clause about children's involvement exists, the statutory after-school facilities where there are a number of provisions about children's participation in decision-making processes and finally the local democracy where there are no real provisions.

1. Custody, name and adoption

26. The Danish custody act provides that children under the age of 18 are subject to custody. This means that children basically do not have legal freedom and competence to decide for themselves. However, a number of provisions constitute an exception to this age limit. For instance, the name rules stipulate that children of not less than 12 years of age have a right to participation in decision-making processes (they must give their consent) and children under the age of 12 years have joint influence (they must be heard). In the event of adoption, 12 years is the limit at which the child has a right to participation in decision-making processes jointly with the custody holder. Since adoption can never take place against the 12-year old's will, the child has a right to self-determination towards its parents.

27. In the event of divorce, disagreement about custody or access, the competent authorities must consult the child if it has reached the age of 12 years before they make a decision. The child is entitled to express its view, so, in other words, it is a matter of joint influence. However, the interview may be disregarded if it is found to be to the detriment of the child. If the child is under the age of 12 years, the child may also be consulted, and this is increasingly the case.

28. When a child is heard as part of the competent authorities' decisions in access cases, the caseworker is under an obligation to note the child's expression of opinion and parents may gain access to the documents. There is hardly any doubt that the duty to take notes and the right to access to the documents are important to comply with the parents' civil rights. However, children are very loyal and their knowledge that their mother and father may gain access to their views may prevent them from saying what they really feel. Children may also experience a direct break of their relations with their parents when they express their views in these matters. Parents' rights may prevent the child from exercising its rights.

29. The weight to be attached to the view of the child in custody and access cases has not been determined. Practice shows that older children and young people have real influence, so practice is in line with a new set of guidelines for the authorities' hearing of access cases.

30. The National Council for Children is of the opinion that

- *there are no reasonable arguments for maintaining this 12-year age limit in Danish legislation governing children's right to be heard in connection with decisions about custody and access. As applied today, the age limit will be an obstacle for children under this age being allowed to express their views and exert influence in all matters. The age limit may also be regarded by parents as an official limit, which must also be taken seriously in connection with advisory services and so they do not communicate the offer of advisory services to their children. Hence, the age criterion should be abandoned.*

2. Children's participation in decision-making processes in the health service

31. The Danish patient act was amended in 1998 and stipulates that treatment requires the patient's informed consent. This rule also applies to child patients down to the age of 15. In other words, the child has a right to self-determination – even if it is refusing treatment of a life-

threatening disease. This is an important, but not unproblematic step forward towards recognition of children's subject status in a legal sense.

32. However, this is not consistent with the Danish abortion act, which applies another age limit to young people's right to self-determination. The rules of the act say that so-called women under age (under the age of 18 years) cannot be forced to have an abortion. This means that they have a right to participation in decision-making processes with a possibility of veto. However, they cannot positively decide to have an abortion. Such a decision must generally be made in conjunction with the parents. But it is possible for young people to apply for an exception to the requirement of parents' consent. Young people may seek advice about contraceptives without the consent of their parents.

33. Hence, the same body of law, i.e. public health legislation, allows a 16-year old to refuse vital treatment, but not to make a decision about having an abortion of a 9-week old foetus without the consent of the parents. Obviously, there is a need for greater consistency or clarification of any necessary difference in views on children's right to decide for themselves.

3. Children's participation in decision-making processes in social legislation

High-risk children

34. In a situation where a child is neglected or where there is an apparent risk that the child will be neglected, the public authorities must help to find other care for the child. If the child is under the age of 12, the local authorities must, dependent on the maturity of the child, ask for its view of the measures considered. If the child is 12 years old or more, the social authorities must, before making a decision, ask for the child's view of such care. If the child is 15 years old or more, the child has its own status to sue or being sued. This means that the child is entitled to request the local authorities to find care for it away from its own home against the will of its parents, and the child is entitled to its own attorney in such matters. The same applies in a situation where the social authorities, against the will of the parents and perhaps also of the child, consider it necessary to place the child in care away from the home. This means that children have a right to joint influence from the age of 12 and a right to participation from the age of 15.

35. A survey conducted by the National Institute of Social Research¹, however, reveals that a large group of children placed in care (38%) are neither informed by their caseworkers nor given an opportunity to being heard. The reason is not clear. Obviously practice in this area needs to be tightened.

Children in day care

36. Since July 1998, the statutory provisions governing the establishment of day care for children have contained an objects clause about day care. Part of it reads: "*day-care facilities must allow children to participate in decision-making processes and assume responsibility, thereby contributing to the development of children's independence and*

¹ Hestbæk, 1997

capabilities to commit themselves". This is a grand statement and it forms an important basis for the development of children's participation in and influence on their own lives. But it is also a statement, which is far from being met in a world where staff numbers are being reduced as much as possible and where many children spend their days in "megainstitutions". So, the question is how the statement can have a binding effect.

4. Children's participation in decision-making processes in school matters

37. Children's participation in decision-making processes as "pupils" at schools has been laid down in two areas. First, the general objects clause for primary and lower secondary schools reads: "The school is preparing the pupils for participation in decision-making processes, joint responsibility, rights and obligations" and also in the legislation where it is pointed out that "The detailed planning and arrangement of lessons must as far as possible take place in co-operation between teachers and pupils". This means that the pupils are also to be included in the educational process.

38. Second, the pupils may exert influence through the formal pupil democracy as practised in pupils' councils and their representation in school boards.

39. Hence, legislation stipulates that pupils must be involved in the practical everyday life of the school, and this involvement is generally regarded as joint influence – the lowest of the three degrees of influence. Through the formal pupil democracy, pupils have a right to participation in decision-making processes or self-determination in the specific areas in which the pupils' council may engage – areas which are often on the periphery of the running of the school.

40. On balance, the influence exerted by pupils on their own schooling is relatively limited – an evaluation confirmed by several surveys of the pupils' own opinion about their influence at school.

41. The National Council for Children is of the opinion that

- *there is a need for a general revision of school regulations about pupils' rights to participation in decision-making processes. The areas in which this participation is allowed must be defined; this also applies in connection with reference of the pupil to special measures in the school system. The right of children to be heard in such situations should be defined. Generally, the present wording of children's participation in decision-making processes in the school system allows the school/teachers ample room for interpretation, which in practice gives the pupils very little room for participation in decision-making processes;*
- *pupils should have formal means to complain of the behaviour to which they are exposed at school – they depend on their parents' will and influence. There is no instance to attend to complaints filed by pupils. There are examples where the school authorities have omitted to hear the pupils involved when parents have complained of the behaviour of teachers towards pupils. This cannot be consistent with the intentions of the objects clause of primary and lower*

secondary schools.

5. Children's participation in decision-making processes in leisure matters

42. Children's leisure activities take place in many areas, such as school-based day-care facilities for younger children, after-school centres for older children and young people, sports clubs and libraries. The right of children to participation in decision-making processes varies from one area to the next.

43. School-based day-care facilities are subject to the objects clause of primary and lower secondary schools. This means that the facilities must help prepare children for participation in decision-making processes, but there is no formal structure for pupils' participation in decision-making processes at school-based day-care facilities.

44. Nor are there any formal provisions governing libraries, but in a number of pilot projects, children have been involved in the decision-making process regarding the purchase of books, interior design, arrangements held for children, etc., and a concept for involvement has been prepared.

45. Within sports, Denmark has a large number of associations – also for children. The big sports organisations adopt a concept to promote the joint influence and joint responsibility of children and young people. However, the general opinion is that the sports world for children is very dominated by adults. Pilot projects have provided experience of methods for how to involve children, but a general implementation is still far from being a fact.

46. The legal framework for youth clubs supported by the local authorities states that co-operation must take place with older children and young people on activities and social life. It also states that “The local authorities lay down guidelines, which ensure that children and young people have an influence on the content of facilities”.

47. Overall, the conclusion must be that the right of children to joint influence varies significantly, from broad and partly not binding declarations of intent to more specifically defined rights.

6. Children in local democracy

48. There are no general provisions, which say that children and young people must be involved in local authority decision-making processes in terms of, for instance, district plans, traffic planning, development of institutions and schools or provision of arts and leisure facilities.

49. However, a number of local authorities have, in recent years, taken various initiatives to involve children and young people in the democratic processes. These include children's councils or youth councils, involvement of children and young people in framing policies for children and young people, hearings of children or “try-it-yourself” schemes where groups of

children are given the funds to complete projects. In some cases, the children's council or the youth council is free to dispose of a sum of money and in others, the councils only express their opinions.

50. The children's and youth councils are elected in different ways. They may be elected directly among children and young people, through the pupils' councils at schools, or as representatives of children or youth organisations in sports, culture, the boy scout movement, etc.

51. In 1997, a survey of the local authorities' work to promote children's participation in decision-making processes was conducted on behalf of the National Council for Children. It turned out that just under half of Denmark's 275 local authorities (133 local authorities) had taken initiatives that allow children and young people to participate in decision-making processes. The survey also revealed that almost every fourth local authority (66 local authorities) stated that it had formulated a policy for children and young people, of this number 13 local authorities (i.e. 5% of the total) had adopted an actual action plan for the implementation of this policy.

52. Many local administrators and politicians have expressed a wish to involve children and young people, but they encounter many obstacles, such as increasing market orientation and outsourcing of decisions to experts in a large number of areas, which were previously a permanent element in the political system of local authority. Hence, a rising number of decisions are made in private. These are decisions, which cannot wait for children and young people to be involved. The overall picture is therefore that, despite the positive rhetoric about involvement of children and young people at local level, there are forces pulling "in the other direction".

53. The National Council for Children has taken an initiative in support of implementation of the Convention on the Rights of the Child in practical local policy for children and young people. The initiative has been taken in a few pilot local authorities, which each in their own way attempts to implement the Convention and establish a code and practice for the actual participation of children and young people in the political decision-making process of the district.

7. Children's participation in decision-making processes – an overall evaluation

54. The participation of children and young people in decision-making processes is being discussed in Denmark – and has been discussed throughout the 1990s. Critical voices are heard in parallel with an actual increase in children's right to participation in decision-making processes and together with growing recognition of the need for further specification of children's rights.

55. The National Council for Children is of the opinion that

- *specification and tightening are needed to achieve greater consistency between the various provisions for the influence, participation in decision-*

making processes and self-determination of children. The various acts hold many and significant inconsistencies.

56. The response of the UN Committee on the Rights of the Child in 1995 to Denmark's first report (prepared in 1993) included a request to "... establish mechanisms that ensure that children are given an opportunity to express their views and that these views are taken into account in the decision-making processes regarding children, including at schools and local authorities". Some of these mechanisms are concerned with legal regulations and consistency between bodies of law regarding children's opportunities of being allowed to express their views. These mechanisms have not yet been established – and the need is still as great as before.

57. There are positive signs in Denmark where our patient and social legislation in some matters grant children self-determination at the age of 15. However, this legislation is not consistent within its own framework, and it also seems to be inconsistent with practice and codes of practice in other areas, such as schools.

58. The National Council for Children is of the opinion that

- *current practice points to the age of 15 years as the limit for when children are granted self-determination in important personal matters. This provides a basis for a discussion of whether this limit is a useful guideline for tightening up the rules applicable in all areas of children's lives. Moreover, the existing practice with a 12-year age limit on the right of the child to being heard in important matters should be abolished and replaced by a maturity criterion;*
- *when it comes to the right of the child to being allowed to express its view in important matters, there is some uncertainty as to who is to ensure that the information is obtained and the manner in which it should be obtained and as to the weight given to the views of the child;*
- *children's active participation and participation in decision-making processes regarding the content and environment for the time they spend in institutions, at schools and in after-school facilities are still limited. Development of methods for the practical area is needed and a change in the opinions of practitioners, politicians and civil servants is required;*
- *the conclusion is that the inconsistency and uncertainty regarding children's participation in decision-making processes are significant and require clarification and specification. This should of course be accomplished in a manner consistent with Article 12 of the Convention on the Rights of the Child about giving the views of the child due weight in accordance with the age and maturity of the child.*

IV. Family matters

A. Children of divorced parents (Article 9)

59. According to Article 9, states parties shall respect the right of a child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

60. About one in three children will, during its upbringing, experience that the family into which the child is born is dissolved on account of the parents' divorce. Experience shows that most children adopt to the new conditions of family life. Whether they adopt to the new conditions with or without permanent injury to their soul depends greatly on the way in which the family breaks up. Do the parents have respect for each other, show solidarity and a will to communicate – or is the process full of conflicts, accusations and poor communication? It needs to be critically evaluated whether the public authorities support the process so that the questions of custody and access are considered in the light of the best interests of the child, the child's participation in the process and with due respect of the child's right to maintain personal relations and direct contact with both parents.

61. The rules developed over the past 15 years regarding conflicts of custody and access are characterised by:

- greater equality between married and unmarried couples when they stop living together
- strengthening of the rights of the unmarried father
- strengthening of the child's opportunities of being in contact with both parents
- increased focus on the best interests of the child in both legislation and practical consideration
- strengthening of the child's opportunities of being heard
- strengthening of the advisory services offered to both parents and children

62. The general impression is that Denmark is in a transitional phase in terms of hearing cases of custody and access towards greater involvement of fathers. Many fathers assume greater responsibility for the daily care of their children and demand higher equality with mothers in terms of granting of custody and access. Many mothers are of the opinion that they still hold the greatest responsibility for the care of the children and would like the fathers to be more willing to assume responsibility before they are given equal rights. The right of unmarried fathers to access has brought a new area of conflict into the open. Both parties often refer to the rights of the child with reference to the Convention on the Rights of the Child to further their own interests.

63. In the majority of cases, parents come to an agreement about custody and access on their own or with the support of the local government office of the county authorities. In a small number of cases, conflicts are very serious and have reached a deadlock. These cases significantly characterise the public debate in Denmark, for instance, in terms of the way in which the authorities address the conditions of children in conflicts of cohabitation. The debate makes an impression on politicians as well as central and decentral administrative authorities. For instance, the Ministry of Justice Department of Private Law has increased its advisory services for the local government office of the county authorities' handling of these cases.

64. However, the National Council for Children does not find that the best interests of the child and the right of the child to express its view are given sufficient attention when the county authorities hear cases and therefore lists a number of problems and proposed changes below.

- *Nor in this area should there be any permanent age limit on the child's right to express its view before a decision is made about custody and access. The child's capability and need to express its view of its near life are not related to a specific age, but only to the nature of the case and the maturity of the child. This practice has already been introduced by some county authorities, but should be so by all county authorities and could be ensured through an amendment of legislation.*
- *The actual interview of children prior to a decision takes place with the legal caseworker in about half the counties and with experts in child matters in the other half. The National Council for Children does not like the idea of such an important interview taking place with persons without any basic education in the mental development of children and dialogues with children. Hence, the Council recommends that all these interviews take place with or in close co-operation with experts in child matters.*
- *The general rule is that only parents who disagree about the sharing of custody and access are offered advisory services by experts in child matters. However, the National Council for Children is of the opinion that society could play a more positive part than it does at present for children in families going through a cohabitation crisis - either as an intermediary between the parents or through an early discussion with the parents about their plans for the children. The Council believes the child's status in the process towards a breakdown of cohabitation would be improved if all parents took part in early advisory services and such services were made compulsory.*
- *When children are offered advisory services, they are most often offered these through the parents. This means the parents decide whether their children are in need of advisory services. When parents refuse an offer on behalf of their children, they may do so due to the best interests of the child, but in many cases it is inevitable that the best interests of the child are confused with the personal interest of each parent. The National Council for Children finds that all children, also children of families where the parents agree about everything, should be offered advisory services. The advisory services should be offered directly to the child. Dependent on the age of the child, the nature of the case and local conditions, these advisory services should be provided in the child's daily environment, such as day-care facilities, the school or within an actual advisory services framework.*
- *Danish children have not been informed of their rights to advisory services in connection with their parents' cohabitation crisis. The National Council for Children finds that the county authorities should make a special effort to inform children of the advisory services.*

- *Some children resist being together with a parent on account of their own wishes and needs. Others resist due to the successful manipulation by the other parent. When children or parents physically resist access, the children may be fetched by the police. There are examples of children being repeatedly fetched against their will with the help of the police. The National Council for Children believes there is a huge need for analysis by the state of these cases to establish whether the best interests of the child and its right to joint influence have been considered in legislation and practice.*
- *New access arrangements have become more popular during the past 15 years. The National Council for Children believes there is a need for regular evaluation of how children see the different access arrangements. Such knowledge should form an important basis for both advisory services and decisions in future access cases.*

B. Alternative care for children (Article 20)

65. Article 20 of the Convention on the Rights of the Child sets forth the right of the child to special protection and assistance provided by the state in situations where the child is permanently or temporarily deprived of its family environment. In accordance with national law, the state shall ensure alternative care for the child, such as foster placement, adoption or placement in an institution. Due regard shall be paid to the desirability of continuity in the child's upbringing and to its ethnic and religious background.

66. The National Council for Children sees a need for an evaluation of Denmark's efforts on behalf of children of ethnic minorities who are in need of alternative care, but reference is made to the alternative report prepared by the Board for Ethnic Equality and the Danish Center for Human Rights.

67. At 31 December 1998, 20,780 children in Denmark were provided with special assistance. 55% (11,410 children and young people) were placed in care. 10,150 of these were placed with the consent of the parents/legal guardian, while 1,250 were placed without. For the past 40 years, both the number and percentage of children placed in care have been relatively constant¹, although at the end of 1998 there was a small increase of 5% in the percentage of children and young people placed in care. The percentage of all children between the age of 0-17 years placed in care has fluctuated at around 1%.

68. At the end of 1995, 44% of the children were placed in family care, 25% were living at 24-hour care centres, 12% were living at socioeducational shelters and the remainder at boarding schools, in own rooms, etc.

69. Many children are placed in care, then at home and then again in care. A total of 28% of the children placed in care in 1994 had been placed in care before, 16% were placed in care

¹ SFI 98:15

for the second time and 11% were placed for at least the third time¹.

70. Denmark has a very well developed public system for taking care of children when their parents are unable to fulfil their obligations of taking care of their children. The quality of the rules on which the intervention by or offers of the public authorities are based and whether the actual efforts of the public authorities are satisfactory are frequently being debated heatedly in public.

71. In recent years, the state has initiated extensive research to learn how rules and practice work. As regards children being placed in care, there is extensive evidence to prove that the best interests of the child often rank second to other interests in the decision-making process: the parents' rights, ideology and the financial situation. One of the consequences of this is that there is a lack of coherence and continuity in too many of the lives of children placed in care. The result is that the intervention of the public authorities is not in the best interests of the child. In 1998, the National Council for Children prepared a discussion paper listing a number of proposals to promote the best interests of the child:

- *The intention of current Danish legislation is for children placed in care to return to their homes again. This means that many children return to their homes after minimal and inadequate changes in the situation of the parents. The overall needs of the child are not given sufficient attention. The National Council for Children believes legislation and practice in this area should be tightened.*
- *If a child has been placed in care without the consent of the parents, the parents are entitled to have the placement renegotiated after one year. This rule has led to uncertainty and instability for many neglected children. In the National Council for Children's opinion, it should be possible to place children in care for longer periods of time.*
- *Children's own relations established in connection with a successful voluntary or compulsory placement in care are given a low priority in the evaluation of whether they should return to their homes. The National Council for Children believes there is a need for children's own personal relations to be shown greater respect in connection with decisions about whether they should return to their home.*
- *Repeated replacement of the family, and thus the child's, council caseworker leads to many non-planned changes in the lives of the children placed in care. Replacement of the caseworker may be caused by the parents' moving to another local authority, a poor relationship between the caseworker and the parents or internal matters of the social services department. The National Council for Children is of the opinion that children placed in care need to have their own permanent caseworker independent of the parents' changing addresses, etc.*
- *The preliminary work for placement in care has often been of inadequate quality.*

¹ SFI 97: 6

The child has not been observed and placed in optimum care in the light of its needs. The National Council for Children finds that there is a need for an increase in local resources and better qualifications of the professionals working in this field.

- The finances of the local authorities quite obviously play a part in the determination of measures to be taken and in a number of cases, the local authorities have decided to move children from 24-hour care centres to their home on account of the financial situation. The National Council for Children is of the opinion that an instance ranking above the local authorities must ensure that qualified decisions are made about the placement in care of children.*

72. The Danish Minister for Social Affairs has presented an amendment to the Social Service Act in the spring of 2000, which, in some areas, will meet the criticism levelled here. The minister has, for instance, expressed a wish to strengthen the opportunities of intervening at an earlier stage to the benefit of the best interests of the child in families that cannot take care of their child and where the health and development of the child are very likely to suffer significantly. The preparatory legal work, however, has revealed a possible conflict through the interpretation of the Ministry of Justice between the Convention on the Rights of the Child's principle of the best interests of the child and Article 8 of the European Convention on Human Rights about respect of private and family life. The National Council for Children intends to monitor actively the fate of the bill and contribute to the required clarification of inconsistency between the two conventions.

C. Right of the child to protection against sexual abuse (Article 19)

73. According to Article 19, states parties shall take all appropriate legislative, administrative, social and educational measures to protect the child against sexual abuse while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

74. In the summer of 1998, it became public in Denmark that an employee had sexually abused a number of children in the day-care facility where he worked. The incident led to a nation-wide discussion about the extent of the problem in the family or child care facilities, preventive strategies, treatment, documentation of abuse, investigation methods, criminal processes, etc. Concern has also been expressed about the abuse of children and young people in connection with the production of pornographic pictures.

75. Information about the extent of sexual abuse of children in Denmark is scarce. Only few surveys have addressed the problem, and there is no tradition for including specific questions about sexual abuse in Danish population surveys about the health and welfare of children. Agreement about the extent of the problem has not been reached. The results of the few but very diverse surveys conducted in Denmark range from 0.2% to 10.3% of a child population exposed to sexual abuse. The general opinion is that most of the abuse takes place in the child's family environment, but the opinion has not been documented by research. The past year's focus on sexual abuse of children in day-care facilities has disclosed a number of incidents and it suggests that the information available is insufficient.

76. The public debate in the media and among professional groups within educational theory and practice, psychology, pediatrics, policy and the legal system has been extensive. The government's Committee on Children is preparing a national strategy against sexual abuse of children. In 1999, the National Council for Children formed an interdisciplinary group of experts to uncover the problems and submit proposals for improvement of efforts in the various sectors of society.

77. At the end of 1999, the National Council for Children presented a number of recommendations on the basis of the expert group's work, including the following:

- *The available research-based knowledge about the extent and nature of sexual abuse of children must be increased. A national knowledge centre must be established, which, across the sectors of society, is able to contribute to the prevention of abuse, investigation and documentation and treatment of abused children.*
- *In connection with suspicions of sexual abuse, it must be possible for children to be examined at regional centres by a trained staff, which includes expertise in pediatrics, forensic medicine, psychology and care.*
- *The framework and methods used by the police for video-recorded interviews of children in these cases must be further developed. Interviews and the interrogation room should respect children's special linguistic qualifications, their non-verbal expressions and their needs to feel secure.*
- *Adults convicted of sexual abuse of children should never be allowed to obtain employment, which means that they are to take care of children. The registration of them should be indefinite.*
- *Each local authority should establish a professional task force to call upon in the event of a suspicion of sexual abuse in a day-care facility or at a school. One objective is to create an environment in which children, parents and staff may feel secure pending any investigation.*
- *The basic training of the various professional groups which take care of or educate children should provide students with actual knowledge and theory about sexual abuse, interpretation of signals shown by the children and the short and long-term psychological consequences and possible treatment. The management functions of the local institutions should be strengthened to prevent abuse.*

V. Health and welfare of the child

78. According to the Convention on the Rights of the Child, children have a right to life, survival and development (Article 6), states parties must support working parents (Article 18(3)), ensure the rights of mentally or physically disabled children (Article 23), children have

a right to health and measures that promote health (Article 24), to social security and insurance (Article 26) and to an adequate standard of living (Articles 27(1) and 27(3)).

79. In general, the health of Danish children is good. All pregnant women are offered free preventive examination by a midwife and a doctor as well as free obstetric aid. Regarding the preventive examination, pregnant women are paid a visit to find a place to give birth, which has the expertise necessary to handle complicated births and treat ill or prematurely born children.

80. All children are offered free preventive health care, dental care and treatment of illness. The Danish infant mortality rate is low at about 0.55% and it is falling, and the sickness rate among children is also low. The most frequent cause of death of children is accidents, and measures to prevent accidents are regularly introduced.

81. As regards serious diseases and mortality, the trend has also been positive for Danish children. Cancer is the most frequent medical cause of death, but more than 70% of children with cancer are cured. The mortality rates of infants, small children and schoolchildren have been halved between 1975 and 1999, one reason being the reduction in the number of fatal accidents. In 1996, the number of deaths per 1,000 children was 0.3 for 1-4-year olds, 0.2 for 5-14-year olds and just over 0.4 for 15-19-year olds, highest for boys.

82. The admission rate for the years 1978-1995 fell slightly for infants, rose slightly for small children and fell for schoolchildren. In 1995, the annual admission rate was just under 30% for children aged 0, just under 10% for pre-school children and about 1% for schoolchildren. The reasons for admitting infants and small children were primarily complications in connection with premature births, respiratory disorders, congenital deformity and infections. Injury is the most frequent reason for the admission of schoolchildren.

83. Danish children are also experiencing well-being problems, especially the problems of older schoolchildren are documented. There is a relatively large group (around 20%), which does not feel especially comfortable at school, and the percentage is higher for older pupils. As regards the general well-being, there is also cause for some concern for a group of big schoolchildren: some 10-20% say they often have different (psychosomatic) symptoms, that they are lonely and that they are "bored with life" (see also section C). The group of children which does not feel comfortable comprises more girls than boys, with an overweight of children from a socially poor background.

A. Right of the child to life and the right of small children to health and health measures

84. In Denmark, women are free to end a pregnancy of up to 12 weeks, and in its preparatory work for the Convention on the Rights of the Child, Denmark has stated that it only interprets the Convention as applicable to children who **have** been born.

85. Even though Denmark generally accepts late abortions of ill and congenitally deformed fetuses and free abortions until the end of the 12th week of pregnancy, the awareness of the

protection of the unborn child has increased and there has been a wish to prevent the abuse by pregnant women of alcohol and drugs. Hence, the National Council for Children has proposed the introduction of a duty for professionals to inform the social authorities of pregnant abusers; the proposal has now been incorporated into a bill submitted by the Minister for Social Affairs. The minister has introduced a bill, which will no longer allow induced abortions of viable fetuses.

86. The unborn child is in need of protection against injury caused by the life style of its mother. Two problems are highlighted in this connection: pregnant women abusers and Danish women's heavy consumption of tobacco.

87. Abuse of alcohol by pregnant women is the single most frequent cause of mental retardation of children. 80% of all pregnant women drink alcohol, and 3.4% drink heavily. Some 2,200 children a year are born by women drinking heavily in Denmark.

88. Pregnant women having problems of abuse and mental problems often do not attend at all, are late for or do not regularly attend their preventive medical examination during the pregnancy. It is especially difficult to help pregnant women taking illicit drugs in the established system.

89. It has been documented that incidents of neglected children and cruelty to children are strongly overrepresented among parent abusers and parents suffering from mental illness or with low intelligence. At least 4% of children under the age of one year are estimated to be neglected. Cruelty to children is the most frequent cause of serious, and perhaps fatal, head traumas among infants.

90. A special group of abused children is the group of so-called shaken babies – the shaken baby syndrome. About 10 instances are registered each year in Denmark, but the real figures is probably much higher.

91. Smoking is very bad for the pregnancy. Children born by women who smoke weigh on average 250 grams less than children born by non-smokers, and some birth complications are more frequent among smokers. The risk of the unexpected death of an infant is higher for infants born by smokers, and throughout their childhood, they suffer more frequently from bronchial infections and are more often admitted to hospital. A survey conducted in 1996 revealed that 26.5% of pregnant women were smoking at the time of their first visit to the midwife.

92. At the same time as the majority of Danish children are in good health, there is a polarisation of children's health in Denmark with a marginalisation of a group of children who have been underprivileged from the foetal stage up during their childhood and for the rest of their lives. The weight of new-born babies in Denmark has risen during the past 16 years, but it displays a social anomaly as low weight is most frequent among children of mothers with only little education, who are abusers of alcohol or drugs or who smoke. At the same time as the average weight of a new-born baby has risen, the percentage of prematurely born babies (born before the end of the 37th week of pregnancy) has increased from 5.3% in 1990 to 6.6% in 1996.

93. The National Council for Children is of the opinion that

- *pregnant abusers and mentally ill pregnant women are not receiving sufficient help through the existing offers. Teams to attend to abusers attached to places where children are born are needed in **all** counties, and there should be a formalised co-operation with employees in the social sectors of the local authorities regarding weak pregnant women and parents of young children;*
- *there is a need for 24-hour services where children and parents of young children can come during the night or at weekends if they have problems they cannot solve themselves;*
- *women who are refused a late abortion must be offered advisory services and support to avoid negligence of unwanted children.*

Preventive health schemes

94. Denmark has introduced preventive health schemes for children and young people. According to the “children health act”¹, the purpose is to offer fundamental services to all children and special individual help to exposed children. Furthermore, focus is on the interdisciplinary nature of the schemes.

95. The local health service’s preventive contacts comprise all children as the health visitors’ house calls and examinations of schoolchildren take place at the initiative of the health service. The local health service must play an important part in the supervision of the health of the children who are worse off, and it must be under an obligation to establish an interdisciplinary group to be responsible for co-ordination of efforts to the benefit of children with special needs.

96. Unfortunately, preventive health work is not given the same priority by all local authorities. Some do not even observe legal requirements. In fact, a survey conducted by the Ministry of Health in 1998 showed that 59 local authorities did not have a district doctor, 36 did not have an interdisciplinary group, and 56 had not appointed a co-ordinator to be responsible for the individual child with problems.

97. The National Council for Children is of the opinion that

- *the process towards fulfilment of the requirements of the “children health act” for interdisciplinary teams in local health services should be completed and given more clout by means of much greater enthusiasm than is currently the case, and Article 3 of the UN Convention on the Rights of the Child should constitute a management instrument;*
- *there is a need to ensure active outreach efforts based on interdisciplinary co-*

¹ Cf. the Danish act on preventive health schemes for children and young people

operation about children and their families, because not all parents make use of the services offered by the social and health services.

B. Care of children and support for working parents

Day-care facilities

98. Most Danish mothers (about 92%) have a job, and they work more hours than they did 10 years ago.

99. All pregnant women are entitled to maternity leave commencing four weeks before the expected date of birth. After the baby has been born, the parents together are entitled to 24 weeks of maternity leave (most often used by the mother) and the father is then entitled to another two weeks.

100. The Danish local authorities are under an obligation to ensure a reasonable number of day-care places. Most children are cared for in day-care facilities from the age of six months to around 10 years. To begin with, they are cared for all day and later after school only. At the beginning of 1999, about 80% of all children between the age of six months and five years (both ages included) were attending day-care facilities. On account of the short maternity leave, children start attending day-care facilities exactly at the time in their lives when they are capable of recalling persons who are not present and thus of missing them.

101. The trend of staff numbers per child attending day-care facilities has been slightly decreasing, in terms of both full-time employees per place and the number of man-hours per child. Many local authorities have replaced the previous after-school centres with school-based day-care facilities. Their staff numbers are fixed at about two-thirds of those of the after-school centres and they are often located on premises available at schools instead of premises suited for the purpose.

102. The government's guarantee that all parents can have their children looked after during the day has increased the intake of children in institutions, but the number of places and staff has not increased accordingly, and a public debate is going on about the number of places in and the quality of day-care facilities.

103. During the past 40 years, children in day-care facilities have been known to be more ill than children looked after at home. The primary reason is a higher frequency of infection in the upper respiratory passages and the middle ear. The frequency of admission due to infectious diseases of children under three years of age has increased between 1978 and 1993. One of the reasons for the relatively high incidence of infections is that many children are together in a rather small space, and the cleaning of the space is insufficient, ventilation is too poor, the hygiene of staff and children is insufficient and, finally, children are often enfeebled when they return after having been ill.

104. Most Danish parents are, according to their agreement with the employer, entitled to paid absence on the first day of the child's illness. Some parents are entitled to another few family welfare days for their children. At present (early 2000), the trend is that most groups in the labour market will be entitled to five extra days off a year thanks to their collective agreement.

Parents may use these extra days as family welfare days. Generally, parents cannot stay home when their children are ill for a longer period of time, and it is common knowledge that children return to the day-care facilities before they have recovered completely from an infectious disease.

105. The awareness that children should not be exposed to passive smoking in institutions is growing. Most small children are being looked after by childminders in their homes. The public authorities do not believe it is possible to lay down rules about a smoke-free environment in this area. In 24% of the day-care facilities, children are sometimes exposed to passive smoking and 25% of childminders smoke.

106. Most small children spend their day in an institution or the home of a childminder. Hence, there is a need for good educational services, a good mental working environment and a good physical environment. However, this is not the case everywhere. There are no centrally laid down provisions about how much room children must have, the noise level to which they may be exposed, hygienic standards, etc. and so they are not protected from passive smoking in all types of day-care facilities. It is up to the local authorities to determine whether they regard the conditions as proper and whether they will meet the recommendations of a central set of building regulations. In extreme cases, the medical officer of health may intervene; otherwise there is no independent supervisory authority of the physical environment of children.

107. Many years of knowledge and experience of the relationship between the indoor climate/room in day-care facilities and infectious diseases of children have not had any consequences in spite of repeated pressure from parents' organisations and other organisations regarding children.

108. Children's cultural learning, development of their social standards and, for instance, their learning of the language will often take place in the public day-care facilities, since Danish children spend so much of their childhood there. Recognising this, the Ministry of Social Affairs has prepared a report about development of the quality of day-care services provided for children. However, educational quality requires a number of sufficiently trained teachers and other adults to take care of the children, and these adults must have the necessary time for the children. The National Council for Children finds that this is not quite the case. It seems that politicians and civil servants in Denmark do not really appreciate that a significant part of children's childhood is spent in day-care facilities instead of at home.

109. The National Council for Children is of the opinion that

- *the improvement of the quality of local day-care facilities cannot stand alone. There is a need for centrally laid down rules about requirements for the physical environment in day-care facilities, with a minimum requirement for the space provided per child, adjustment of the indoor climate, noise level, etc., and for the minimum number of trained and unskilled staff members. Moreover, the recruitment procedure must minimise the risk of abuse of children;*
- *maternity leave of at least 12 months should be introduced to prolong the period a child is able to spend the day with either of its parents and so that the care of the*

child away from the home may begin at a time when the child, thanks to its development, is less vulnerable;

- *all parents should be granted a large number of family welfare days to mind ill children and support them at important events;*
- *all children should be entitled to care in a smoke-free environment.*

C. Right of older children to health

110. Most schoolchildren live a good life, with close family ties, schooling, a full leisure life, friends and, as regards the older schoolchildren, often an after-school job. This large group of children handle themselves a complicated everyday life. However, this is not the case for everyone and there is reason to focus on the polarisation occurring between the large group of children in good health and a feeling of well-being and the smaller group characterised by poor well-being and a worrying health.

111. Many surveys have described Danish young people's smoking habits and abuse of drugs. Their alcohol consumption is the highest in Europe and Danish children begin drinking at a very early age. At the age of approx. 16, 17% of the boys and 12% of the girls have, within the past week, drunk more than is generally recommended by the Danish National Board of Health for adults.

112. Children's consumption of alcohol must be seen in the light of adults' consumption and, not least, of the role alcohol plays in today's Denmark. Alcohol is the legal drug used when schoolchildren wish to unwind after a timetabled efficient day.

113. Research has shown a connection between a heavy consumption of alcohol of schoolchildren and frequent social gathering with friends, a lack of confidence in adults, melancholy, a feeling of discomfort at school and smoking. This means that alcohol is part of that group culture and the weaker the social conditions of children the greater the dependence on this group culture.

114. It is alarming to see that if a person starts drinking alcohol at an early age and consumes a lot of alcohol in the early years, the result may be permanent, heavy consumption or dependence. But it is also alarming that consequences may be seen here and now in the form of learning disabilities, problems at school, violence, crime, accidents and unsafe sex, thereby paving the way for the abuse of illicit drugs. Alcohol is heavily consumed by young people from all social classes in Denmark.

115. Compared with other European countries, Danish schoolchildren are also among those who smoke most hashish, and when it comes to other illicit drugs they rank in the middle of other European countries. Often, the young people consuming a lot of alcohol are those who also experiment with other drugs.

116. A survey conducted in 1997 shows that just over 25% of all 15-year olds smoke tobacco, with some 15% smoking daily. Another survey of the smoking habits of 15-year olds shows a rise in the number of young smokers between 1994 and 1998.

117. Children see adults smoke at home, in day-care facilities, at school, in sports clubs, etc. Children are allowed to smoke at many Danish schools. Smoking is most frequent among children from a poor social background and is related to an unhealthy life style in other areas.

118. An inactive life style and a diet rich on carbohydrates may lead to obesity. The number of obese young men doubled between 1987 and 1994 and the number of obese young women rose by 66%. The increasing frequency of obesity starts already in childhood. Today, schoolchildren of all ages weigh more than they did in the early 1970s. The difference is more pronounced for older pupils and particularly the number of very overweight pupils has risen. Overweight children and not least young people are often judged by their surroundings and the obesity has serious negative psychosocial consequences for most of them. At the same time, it paves the way for a number of serious complications in their adulthood, including cardiovascular diseases, osteoarthritis and diabetes that does not require insulin. Surveys have shown that obesity is most frequent among children who only receive little support from their parents and children from weak social environments.

119. A survey has revealed that many young girls are overly concerned about their weight and the shape of their body. They do not like themselves and the way they look and they are afraid of gaining weight. In 29% of the cases, the concern and weight adjustment are of such a nature that there is a risk of the girls developing an eating disorder. The fact that many children and young people have an unnatural relationship to food may be regarded as a sign of stress and a feeling of discomfort.

120. Schoolchildren are showing many physical symptoms, such as headache, stomach-ache, sleeping problems and backache. According to various surveys, some 25% have a headache every week, 10% have a stomach-ache and 20% have a backache.

121. Like small children, older schoolchildren suffer from infections. A survey has shown that up to 25% of the older pupils have had an infectious disease within a 14-day period.

122. Children often spend more time at school and in school-based day-care facilities than their parents do at work. The “working environment problems” experienced by children are the same as those of most parents: back problems, injuries caused by the use of a mouse, problems with the indoor climate and a poor mental environment in the form of, for instance, bullying. Schools represent Denmark’s biggest “workplace” and often there are no canteens or other places for the pupils to eat their food. At most schools, it is not even possible to buy wholesome food and beverages. Good dining facilities for adults are regarded as a matter of course.

123. Except for the provisions governing the use of hazardous substances and dangerous machines, there are no centrally laid down provisions about children’s “working environment” at schools. The Danish health and safety at work act applicable in the labour market does not

apply to institutions for children and schools. A poor physical environment with too small classrooms, poor ventilation, bad lighting and acoustics, inconvenient PC workstations, insufficient cleaning and maintenance may be criticised by the district doctor or the medical officer of health, but direct intervention is not possible.

124. 5-10% of schoolchildren suffer from asthma, which is the most common chronic disease. Furthermore, hay fever and allergy-based skin diseases are common.

125. Hence, older children seem to be in good health, but yet to suffer from acute infections and a number of symptoms, whereas chronic diseases are rare, with the most common serious diseases being asthma and obesity.

126. Older schoolchildren are in a hurry. They must have time to attend school, do their homework, practise sports, attend their after-school jobs, have time for their hobbies and time to be with friends. Some 80% of young people aged 14-16 years do sports after school. About 65% work after school.

127. The living conditions of today's children may lead to rootlessness, loneliness and insecurity. In the modern welfare and information society it is difficult to find ones bearings. Young people can no longer take the role of their parents, but have, to a great extent, to find their own identity and truths by pondering over themselves in the world. They may find it hard to find somebody to talk to about existential questions. Often parents have too little time on account of their full-time jobs. The contact with one of the parents may not be very good in many broken homes. Schools do not believe it is up to them to talk to the children about their lives, but focus instead on teaching them skills.

128. Children are faced with a large number of options at an early age. One of the problems is the temptation of very early behaviour like an adult abusing drugs. The consequences on health are, on the face of it, less clear. Inappropriate behaviour in terms of health, a lack of self-confidence and a lack of confidence in the world will lead to illness caused by the way of living and social problems in the longer term.

129. Obesity and mental illnesses, including eating disorders, among children and young people are diseases, which are probably related to a lack of support and care and may be regarded as a sign of a lack of well-being. Children and young people who are generally not doing fine often have a poor social network.

130. Adolescence entails choices and actions that determine the future adult life. It is therefore alarming that so many young people (about 20%) in Denmark drop out of the education system. This creates a very exposed group of young people. In a high-tech information society such as the Danish, a lack of education generates a high risk of marginalisation.

131. The National Council for Children is of the opinion that

- *there is a need for extra efforts to support exposed groups of older children. It is necessary to establish better advisory services and develop methods and opinions among professionals, which can strengthen the network of these children and their near relations;*
- *children are entitled to a good physical and mental environment at school. So, a special environment act must be passed for children at school and in day-care facilities;*
- *the measures to promote health at schools and institutions for children must be*

increased and involve the children;

- *the actual school culture, and thus pupils, teachers and parents, should be encouraged to strengthen the social dimension at school as the common basis for the school;*
- *student counselling should be intensified towards the group of exposed young people and turned into personal support (“man-to-man marking”).*

D. Rights of mentally or physically disabled children

132. According to Article 23, mentally or physically disabled children must be ensured a full and decent life, special care and effective access to education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual development.

133. Denmark does not prepare any overall statistics in this field as such. Hence, it is not possible to give an account of the total number of disabled children, including of sexual differences, the development over time of children with different disabilities or the number of multi-disabled children¹. However, the incidence of multi-disabled children is estimated at around 1% of all children². The shortage of statistics means that the group of disabled children is less visible.

134. If we look at the trend of the number of children receiving the comprehensive teaching of primary and lower secondary school, the number rose by 25% between 1995 and 1998/1999. By way of comparison, the total number of pupils rose by 3%. In 1998, 1.36% of all children received comprehensive special education. Pupils with behaviour difficulties/mental diseases account for most of the rise. The sharp rise in the number of pupils referred to the comprehensive education of the primary and lower secondary school does not necessarily mean that the number of children suffering from a disease has gone up. Greater attention, new reference practice and financial “out-of-the-box thinking”.

135. The treatment and care of disabled persons is organised in different ways in the community. The responsibility for the big disability areas has been granted to the county and local authorities, while the responsibility for the small and special groups of disability has been granted to the national authorities³. The development in the granting of responsibility and the organisation of the various services have taken place on the basis of an idea of decentralisation and integration, where the consequences for disabled children may, however, be a poorer quality of the treatment they receive and development services.

136. The specific living conditions of disabled children, including their chances of influencing

¹ Lindholm (CASA) 1999

² Anne Nielsen, etc. 1998

³ Anne Nielsen, etc. 1998

their own lives, have only been examined and described very little.

137. In the light of the National Council for Children's own expertise as well as knowledge and recommendations of NGOs and others with a knowledge of and interest in disabled children, the Council wishes to focus on the following:

- *There is a need for more information about disabled children, based, for instance, on regular statistics. There is also a need for information about disabled children's participation in decision-making processes in their families, their treatment and in institutions.*
- *The continued decentralisation of responsibility for and efforts towards disabled children is a cause for concern, as the quality and the options of the services provided for the children are at risk.*
- *The physical access of disabled children and young people to Danish primary and lower secondary schools should be improved¹.*
- *The after-school facilities offered to disabled children are too limited. What is needed is, for instance, school-based day-care facilities attached to the special schools/remedial classes and an offer of leisure-time activities for disabled children.*
- *Transport through individual transport schemes for severely physically disabled persons should also include persons under the age of 18 years.*

E. Children of vulnerable single-parent families

138. The number of single mothers with one or more children in Denmark stands at just over 100,000. The number of children living with a single mother stands at around 230,000, which means that just over 21% of the Danish children are living with a single mother – compared with 3% living with a single father.

139. The group of single parents is not homogeneous. Some single parents have a lot of resources and do a lot better than the average, in both financial and social terms, and then there are single parents who are vulnerable and doing poorly. Seen as one group, the group of single parents differ from other families with children in that a rather large percentage receives cash benefits (about 40%) and housing benefits (about 60%). This is the group where we find the particularly vulnerable group of single-parent families, which mainly consists of single mothers and their children.

140. Financially and materially, especially single mothers aged 30-49 years with two or more children have very low income. In this group, the proportion of really (and substantially) poor is some 17%: financially, this group is below the threshold for necessities of life regarded as the

¹ Equal Opportunities Centre for Disabled Persons 1995

minimum for living a decent life¹.

141. Surveys of these hard-pressed and vulnerable single-parent families² reveal:

- significant financial problems regarding necessities of life and the good things in life. The reason is that most of the families in this hard-pressed group do not work and when they seek help and support from the public social system, they often encounter large barriers;
- educational weaknesses, because either the mothers do not have any education or are not encouraged to receive one. Too many of the mothers go from one employment and activation project to the next;
- housing problems which are seen as acute by many. They regard themselves as trapped in a downward process, which keeps them in an environment that does not help them to get on with their lives either;
- a poor network where they miss fellow workers, friends and relatives to support them in their everyday lives. To many of them, this is also caused by their ethnic minority backgrounds, which mean that they more or less do not have any network at all. They are very much living by themselves;
- incidents of violence leading to shorter or longer stays at sheltered housing for women. A survey showed that more than half the mothers had been subject to assault and battery by their partners.

142. Children in these families grow up under a lot of social and psychological strain and experience dramatic incidents of violence, strong conflicts and humanly degrading acts. The surveys show children influenced by these incidents, both as regards friends, their ability to make stable contacts, schooling and health and well-being. This group must definitely be regarded as a high-risk group in nearly all social and psychological respects.

143. The social services provided for this group of single parents and their children have clearly been insufficient and characterised by a lack of knowledge and will to provide efficient help. Many of the mothers find that they are being trapped in a social and degrading situation without any chances of becoming self-supporting. Most of the children do not receive sufficient help to get over these difficult incidents and develop in a good and constructive manner.

144. The National Council for Children proposes a sharp rise in the number of services offered this group of vulnerable single-parent families, both as regards education, housing, social networks and offers of treatment, and proposes especially for children that:

- *children of these families are guaranteed a place in a day-care facility and other social facilities that may provide a constructive environment in an often hectic everyday life;*

¹ Hansen, E.J. (1995)

² Hansen, Malmgren & Munk (1999), De klemte og glemte børnefamilier - børnefamilier og valgmuligheder. CASA.

Halskov, T. (1999). Single mothers in the tension between the Public Social Welfare System and Voluntary Social Organisations. Danish and Swedish Experiences. Paper Lidingö, Stockholm, febr., 1999.

Polakov, V., Halskov, T. & Jørgensen, P. Schultz, Vulnerable Lone Mothers and their Children. Forthcoming

- *schools and institutions have a clear opinion about incidents of violence and assault as part of vulnerable children's experience – and, if necessary, that they notify the social authorities when they believe they have come across such incidents;*
- *schools and institutions have the qualifications for socioeducational services that may have to be provided as a result of children's delayed anxiety and stress reactions to violence and assault (for instance, in connection with special education and family services to be regarded as actual treatment).*
- *teachers, educationists and other staff are ensured training with a view to observing signs and symptoms of children;*
- *schools and institutions should be aware that social and personal difficulties and learning blocks may be the result of an upbringing as a member of a vulnerable family.*

145. Moreover, as regards questions about the law of domestic relations, the National Council for Children is of the opinion that

- *joint custody is hardly a good solution for a family where one of the parents – the father – has resorted to violence;*
- *children should not be forced to see a violent father unless they wish to;*
- *the hearing of children of such families in connection with decisions in family matters should take place in an absolute secure and confidential atmosphere by a professional with special vocational training.*

146. Vulnerable single parents and their children often have a feeling of being left out completely – with a sense of being stigmatised. This is a matter of a negative social inheritance that can only be broken if the strategy and signals are changed through the measures required, not least from the public authorities. It is a social and human problem which, in the opinion of the National Council for Children, can and must be solved by a society such as the Danish.

VI. Bullying at school

147. Article 29 states that education of the child shall take place in an environment characterised by understanding, peace, tolerance, equality and friendship.

148. Research results have focused on the fact that many Danish children are being bullied at school by other children. Bullying causes poor well-being, a feeling of inferiority and poor learning.

149. Surveys conducted by the WHO in 1994 and 1998 of schoolchildren's health and well-being and the National Council for Children's own survey conducted in 1998 show that about

25% of Danish children aged 11-15 years are being bullied often or very often during a school year. The Council considers this percentage to be alarmingly high.

150. A number of factors contribute to an environment where bullying thrives: unclear placement of responsibility for well-being at the school, the school's physical environment, the school's values, the form and content of lessons, communication between teachers and pupils, signals given by parents and children's upbringing.

151. The alarming research results have led to a public debate and a number of parties (the Ministry of Education, teachers' organisations, parents' organisations and the National Council for Children) have each prepared materials to support specific initiatives in the individual school.

152. However, the National Council for Children believes there is a need for the Danish authorities to create a basis for a permanent change in the incidence of bullying and has the following recommendations:

- *Pupils' mental working environment should be protected by a special health and safety at work act for children in institutions and at schools.*
- *School legislation must be specified to make principals and teachers responsible for discouragement of bullying, including the creation of a social environment that may have a preventive effect.*
- *Theories about social environment and social intervention should form part of the curriculum in the training of teachers.*
- *Research on bullying should be increased.*

VII. Imprisonment of children and young people

153. Article 37 states that imprisonment of children and young people shall be "... used only as a measure of last resort and for the shortest appropriate period of time". Moreover, it lays down that a child deprived of his or her liberty shall be "... separated from adults unless it is considered in the child's best interest not to do so". Hence, it is stressed that imprisonment of children is regarded as an obvious exception and that, if imprisonment does take place, it must be in special consideration of children and the needs of children of that specific age.

154. Article 40 points out that children deprived of liberty shall be in an environment promoting their social reintegration, i.e. the re-assuming of a constructive role in society and the child's sense of worth.

155. Denmark has tried to meet these requirements in different ways. The scheme of 1991 set up special blocks for young people aged 15-17 years in two prisons for adults in Denmark (Blegdamsvejens Fængsel and Statsfængslet at Søbysøgård). This scheme was established when

Denmark ratified the UN Convention on the Rights of the Child in 1991. However, the experience gained from having many young people of a criminal background in one place was allegedly poor. A new circular therefore came into force on 15 January 1999, which describes a principle of proximity to the home, talks about letting people out gradually to study, etc., and using substitute custody as far as possible. But in the event of deprivation of liberty, time will be served in an adult prison.

156. In 1997, a total of 135 15-to-17-year-olds were serving sentences in primary prisons or local prisons. In 1998, the number was 119. These numbers are the totals for one year. At a certain time, e.g. April 2000, the number was down at 11.

157. In Denmark, it is possible to hold young people aged 15-17 in solitary confinement. Legislation dated May 2000 makes it possible to hold young people in solitary confinement for up to eight weeks. Explanatory notes point out that this option should only be used under very special circumstances. This reservation was also highlighted by the Minister for Justice in May 2000 in connection with the protests against the passing of the solitary confinement legislation.

158. There is ample psychological and educational knowledge to confirm the general opinion that it is positive for children to learn and develop under the influence of the entire environment. This particularly applies to children where special measures need to be taken due to criminal acts. It is of the utmost importance that these measures have positive values, require the child's participation and joint responsibility, hold opportunities for education and schooling – and have positive role models and patterns of attachment. When the measure is a prison or a similar closed environment, this can only be achieved by creating a special environment for young people – outside the adult prisons.

That solitary confinement is humanly degrading is documented by ample psychological evidence. This consequence is even clearer when looking at children and young people in solitary confinement.

159. The National Council for Children is of the opinion that Denmark's efforts in this respect are unacceptable and that innovation and development of relevant measures for delinquent children are required. This means that

- *children and young people must never serve time the same place as adults;*
- *children and young people must never be held in solitary confinement;*
- *sufficient special measures must be taken in the social sector for children serving a prison sentence;*
- *these measures must have a credible rehabilitating aim;*
- *an assessment must be made of how the established environments work.*

VIII. Conclusion

160. The National Council for Children has no doubt that, by international standards, Danish children are among the more privileged children – in terms of both social welfare, education, culture and rights. And this report should neither be regarded as an indictment nor as a

description of misery.

161. Nevertheless, the National Council for Children is of the opinion that the privileged position of the Danish society in the world places it under an obligation to grant children the rights to which they are entitled as members of this society. The obligation should be seen in the light that today's society both presents new opportunities for a good life for children and involves new risks. Hence, the obligation on the government institutions, including the report to the UN Committee on the Rights of the Child, means that they must adopt a sufficiently in-depth and critical approach to the conditions of children. Only then will proposals for a better life for children be put into practice.

The National Council for Children hopes that this report will help to achieve this end.