



Report to
**The United Nations
Committee on the
Rights of the Child**

Supplementary Report to
Denmark's 4th Periodic Report



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Børnerådet
The Danish National Council for Children

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**The United Nations Committee
on the Rights of the Child**

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for Children to the United Nations
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Introduction

"Sometimes Daddy is busy at work, but he always has time to give me a kiss."¹

Line, 5th grade

"I don't get to go on holiday as much as the others, so I don't get much sun. I'm very white. That's why they call me Zombie. I don't like it much."²

Tom, 12

Most children in Denmark lead a good life. They live with their parents and can afford to maintain a reasonable standard of living with material goods. They attend school and have access to health care should they fall ill.

Most children, however, is not the same as all children. Figures from the National Social Appeals Board show that approx. 15,000 children are placed in care outside the home. Almost 5% of all children in Denmark live in poverty³. An unknown number of children attend school with such irregularity that they never receive a school-leaving certificate and are therefore excluded from further education⁴. If one asks the children themselves, as the National Council for Children regularly does in the context of its Children's Panel⁵, one third of all 7th grade pupils feel left out in school⁶. One in four experience stress

symptoms once a week or more, while more than one in three admit to taking headache tablets once or more than once during the two weeks prior to being asked⁷. One in four have recently experienced being bullied⁸. Every year, 22,000 children are witness to violence in the home⁹, and 13% of children confide that they have personally been subjected to corporal violence¹⁰.

The National Council for Children believes that there is a need for solid efforts to be made over a wide range of areas pertaining to children's welfare, since far too many children in Denmark do not receive the care, protection and help to which they are entitled. To the extent that society wishes to ensure the right of children to receive a caring childhood with provision for individual development, we are compelled to clearly and unambiguously make this area a priority.

Reforms with unknown consequences

Since the government delivered its third periodic report to the UN Committee on the Rights of the Child in 2005, new legislation and reforms have meant changes in the lives and general living conditions of children in Denmark. For example, in 2007 a structural reform was implemented in the area of local and

1 "Portræt af 5. klasse. Børnerådets Børne- og Ungepanel", The National Council for Children, January 2007.

2 "En ensom kamp. Et indblik i børns sundhed og trivsel i familier med få penge", The National Council for Children and TrykFonden, 2006.

3 "Børnefattigdom i Danmark 2002-2006", SFI - The National Centre for Social Research, 2009.

4 See section VI on Education, leisure and cultural activities.

5 The National Council's Children's Panel comprises 1,200 children from all over the country. The panel responds on a continual basis to questions concerning the thoughts, opinions and personal experiences of children relative to important social issues. The Council's public profiling efforts allow the panel to inform public debate by contributing its own perspectives on, and insights into, children's lives.

6 "Forskelligheder og fællesskab. Børnerådets Børne- og Ungepanel", The National Council for Children, 2008.

7 "Mental sundhed 2009 – at føle man er noget værd. Børnerådets Børne- og Ungepanel", The National Council for Children, March 2009.

8 "Mobning 2008. Børnerådets Børne- og Ungepanel", The National Council for Children, 2008.

9 Landsorganisationen af Kvindekrisecentre, LOKK.

10 "Opdragelse 2007. Børnerådets Børne- og Ungepanel", The National Council for Children, 2007.

regional government, but its redistribution of responsibilities and tasks between local and regional authorities gives rise to concern on behalf of children at risk, not least in the area of alternative care. In general, however, it is the opinion of the National Council for Children that it remains too early to measure and evaluate the effects of the governmental reform, the placement policy reform and the more general quality reform, since the intentions behind these have yet to make themselves felt. However, the Council will closely and with a critical eye monitor both positive and negative consequences of these reforms for children's rights in Denmark.

The Danish government is committed to upholding the articles of the UN Convention on the Rights of the Child. For this reason, the National Council for Children finds it especially encouraging that a series of new legislative measures with direct bearing on the lives of children specifically makes mention of the Convention. Among these measures are the laws on parental responsibility¹¹ and daycare provision¹².

However, as the present report makes clear, a number of important areas remain in which society fails to uphold its responsibilities. These areas include the family, health and well-being, schooling and daycare, as well as a number of more specific protective measures.

Conditions for children with disabilities are especially overlooked in political processes concerning children's welfare. The National Council for Children supports ratification by Denmark of the UN Convention on the Rights of People with Disabilities. Such a measure would go a long way to ensuring that all children with disabilities are able to exert real, direct influence on their own lives.

Involvement of children

It is the Council's opinion that the Danish government ought to involve children directly in reporting to the Committee on the Rights of the Child. Denmark is

run democratically, and it is only natural that the democratic process involve children in decision-making. Involvement and co-determination strengthen children's self-esteem and propagate democracy. For this reason, children ought to be involved in all areas of society and at all levels according to their maturity and standpoint. This includes the present reporting process.

The National Council for Children involves children in its reporting process by in part building individual items of the report on children's own points of view as collated by the Children's Panel.

The Council wishes to make its own contribution to extending implementation of the Convention on the Rights of the Child in Denmark. It is the Council's wish that all children in Denmark feel that they are heard and respected as children. However, it remains primarily the responsibility of government that the will, knowledge and insight necessary to achieve this goal are generated throughout society.

In this supplementary report, the Council has addressed only those issues on which it has placed particular focus during the past few years. As regards further focal areas, the reader is referred to the supplementary report of the NGOs, which specifically addresses issues relating for example to trafficking and children with disabilities. The report may be downloaded from Save the Children Denmark's website at www.redbarnet.dk.

The fact that the present report of the National Council for Children does not address all issues treated in Denmark's official report should not in any way be construed in terms of concurrence or otherwise with the government's own stance on those issues.

¹¹ Law No. 499 of March 6, 2007 (law on parental responsibility)

¹² Law No. 501 of June 6, 2007 (law on daycare provision)

II. Steps toward implementation

A. Implementation of the Convention on the Rights of the Child (Article 4)

Incorporation of the Convention on the Rights of the Child

In its concluding remarks to Denmark in 2005, the UN Committee on the Rights of the Child recommended that the Danish state continue and reinforce its efforts to ensure the full accordance of Danish law with the Convention, and that the Convention take precedence in instances of conflict between Danish rules of law and the rights laid down in the Convention.

The state of law remains such that Denmark is committed internationally to upholding the Convention, and the Convention may, whether or not it is included in Danish legislation, be referred to and applied by courts of law and other judicial authorities. The fact that the Convention is not incorporated in Danish legislation, however, continues to have real detrimental consequences for children in Denmark. For this reason, the Council recommends that the legal standing of children be strengthened by means of a formal incorporation of the Convention. This, however, is a recommendation the government has chosen not to follow. The Council once again urges the government to address this issue.

The Committee has encouraged Denmark to revise the provisions of its Administration of Justice Act with a view to guaranteeing the right of appeal as to judgment by a court of law, such that Denmark's proviso as to Article 40 may be lifted. Following the reform of the lawcourts in January 2008, almost all cases are initially brought before the district court, but there remain cases in which the High Court is the court of first instance, whereby hearing is excluded at two instances.

The Council finds that Denmark ought to

ensure the right of appeal in all cases without restriction as regards the question of guilt as well as sentence, so that the proviso as to Article 40 may be rescinded.

The National Council for Children therefore recommends that:

- *The UN Convention on the Rights of the Child be incorporated in Danish law.*
- *The government take steps to ensure that all government ministers, committees, commissions etc. having influence on the lives of children be committed to the systematic evaluation of rules, practice and legislative bills on the basis of the letter and spirit of the Convention, such that the Convention on the Rights of the Child consciously and systematically be applied as a guideline for ensuring children's rights and interests.*
- *Denmark's proviso as to Article 40, subsection 2 (b), (v) be rescinded.*

A national plan of action

At the UN Children's Summit in New York in 2002, the Danish government endorsed the final outcome document, "A World Fit for Children", which reaffirms the commitment of governments to formulate national plans of action for children, in collaboration with children and together with organisations and individuals involved in the field. The National Council for Children has repeatedly pressed for such a plan of action to be drawn up, though without result.

The Council therefore urges the government to adopt a long-term perspective on children. In a wide range of areas, policy development and individual measures are unduly marked by the appeal of one-off cases and the spotlight of the media, though with highly variable significance in relation to the real

problems faced by children in Danish society. The solutions to these problems therefore tend to be short-sighted and poorly aligned with related focal areas.

Therefore, it is the Council's opinion that the government should appoint a minister with the brief of co-ordinating policy on children. The minister appointed should be responsible for ensuring that legislative measures and other initiatives concerning children to a larger extent are founded on qualified research including the best available knowledge as to the effects of initiatives specifically targeting children.

The National Council for Children therefore recommends that:

- *The government as soon as possible draw up a unifying national plan of action for children as Denmark committed itself to doing at the Children's Summit in New York in 2002.*
- *Political measures be taken as to appointing a minister responsible for co-ordinating child policy in Denmark.*

B. Children's right of complaint

In its concluding remarks in 2005, the UN Committee on the Rights of the Child recommended that Denmark incorporate the Convention on the Rights of the Child into Danish law, and that Denmark reinforce the legal status of children, including their right of and access to complaint, by e.g. extending the present mandate of the National Council for Children.

The Council and a wide range of children's organisations share the opinion of the Committee as to the need to reinforce the legal status of children in Denmark. In all too many areas, the formal rights and influence of children are either non-existent, poorly defined, or inapplicable in practice. Where existing provisions for complaint are concerned, access to complaints procedures is to a large extent directed toward adults, and provision is ill-equipped in terms of the competencies required for dealing with approaches from children. Too few children make use of existing provisions. Children do have rights, yet in practice they fail to receive justice. Consequently, all too many cases are filed away, only to be reviewed too late.

In some areas, the legal status of children is especially fragile. These include the areas of health and the provision of schooling and daycare, where mechanisms to ensure inclusion and influence to a large extent are inadequate or wholly absent.

In order that these problems may be solved, the Council and its related organisations urge government to introduce legislative measures to establish an independent children's ombudsman operating directly beneath the Folketing (the Danish parliament). Such an authority should continue the pursue the Council's present activities, though with an extended mandate. It should actively promote the cause of children, particularly with regard to ensuring and extending the rights of children and their access to using those rights.

The institution, which for present purposes we shall call the Spokesperson for Children's Rights, should first and foremost:

- **actively promote the cause of children**

With the UN Convention on the Rights of the Child as its point of departure, the Spokesperson for Children's Rights should actively promote the rights of children. The Spokesperson should work for all children, in particular those who are marginalised, including children with special needs.

- **offer help and advice on rights**

The Spokesperson for Children's Rights should be an easily accessible institution providing advice and guidance on any issue pertaining to children's rights. The Spokesperson should help children by providing the support necessary in order that children's individual problems may be resolved.

- **assess individual cases on its own initiative and subsequent to approach**

The Spokesperson for Children's Rights should possess right of insight into individual cases and on such basis ensure that children receive the best possible treatment at the hands of the relevant authorities. The Spokesperson should possess the right of expression to comment on the legality of

specific decisions, as well as on the degree of accordance between legislation and the Convention on the Rights of the Child.

- **possess the rights of insight and visitation in respect of authorities and institutions**

The Spokesperson for Children's Rights should enjoy free access to children's institutions with regard to ensuring the best interests of the child in the work of such institutions. Similarly, the Spokesperson should enjoy right of insight into individual cases in order to assess and comment on decisions, procedure and policy concerning children.

- **pursue the present mandate of the National Council for Children**

The Spokesperson for Children's Rights should fully pursue the present activities of the Council as these are outlined in the Executive Order on a National Council for Children. The Spokesperson should be ensured the resources necessary to carry out these activities.

The mandate and finances of the National Council for Children

Since its inception in 1994, the National Council for Children has been financed by means of a basic grant included in the Finance Act, supplemented since 2006 by funding from a public pool specifically intended to fund the running and development of the Children's Panel and the information project *Børneinfoen*¹³. Moreover, the Council has to a limited extent received funds for the support of individual projects from the private sector.

The public pool funds will no longer be available from the close of 2009, resulting in a reduction of the Council's financial basis by approx. one third.

NATIONAL COUNCIL FOR CHILDREN FUNDING 2006 - 2010

DKK mio.	2006	2007	2008	2009	2010
Total	4.8	5.1	5.5	5.9	3.1
Public pool share of total	1.7	1.6	1.8	2.1	0
Full-time equivalent	6.3	7.0	7.0	7.4	-

It is the Council's opinion that the tasks delimited by the Executive Order for the Council cannot satisfactorily be carried out when public pool funds no longer are available. Therefore, the Council urges the Folketing to address the issue of funding with regard to ensuring adequate long-term financing of its existing activities.

C. Information about the Convention on the Rights of the Child (Article 42 and Article 44, subsection 6)

A study of some 1,150 children in 7th grade undertaken by the Council in 2008 shows that an alarmingly small number of Danish children are cognisant of the Convention¹⁴. 18% of children questioned had heard of the Convention, and 15% stated that they knew what the Convention was. In other words, less than one in five children has heard of the Convention.

Article 42 commits government to disseminate information on the Convention to children, parents, professional organisations, local and national politicians, etc. In this respect, the Committee recommended that the Convention be systematically incorporated into school curricula as well as the training of professional and administrative staff working for and with children. As is apparent in the government's fourth periodic report, the government has not initiated independent measures in order to live up to this recommendation.

¹³ *Børneinfoen* provides information to children on their rights, thereby enabling them to take advantage of such rights. The project comprises a number of initiatives, including a website and numerous campaign activities.

¹⁴ The Children's Panel of the National Council for Children, 2008.

The National Council for Children therefore recommends that:

- *Instruction as to the Convention on the Rights of the Child be incorporated as an obligatory element of basic training in all relevant professional training programmes, so that such instruction may apply to all who work for and with children (judges, solicitors, police, local authority staff, health care workers, etc.).*
- *Measures be taken to ensure that the content of the Convention on the Rights of the Child may be disseminated in a relevant manner to children throughout the school system by integrating the Convention into the curriculum at all levels of schooling.*
- *Information as to the Convention on the Rights of the Child be disseminated in the most common languages of immigrants and refugees residing in Denmark.*
- *Local authorities in Denmark be informed of the Convention on the Rights of the Child and their responsibilities as to the practical incorporation of the Convention.*

III. General principles

A. Protection against discrimination (Article 2)

The 300-hours rule

On April 1 2007 the government introduced a new measure in the area of employment policy – the so-called *300-hours rule*. The rule entails that when a married couple has received supplementary benefit for two years or more, a condition enters into force whereby benefit may only be continued in the case of both spouses documenting that they have been employed under normal circumstances without support for 300 hours. Failure to comply with this rule means that one spouse may lose the right to benefit.

The National Council for Children believes that the 300-hours rule has major unintended repercussions for children whose families are affected, and that the rule has a discriminatory effect insofar as it primarily impacts on women of ethnic minorities. A study conducted by SFI – The Danish National Centre for Social Research¹⁵ – shows that 95% of those denied continued benefit, and 90% of those at risk of losing benefit, were born outside Denmark. More than one third are unable or only partly able to speak Danish. Moreover, the study shows that approximately one third of those who lose the right to benefit subsequently gain employment, while one third remain without work and without benefit. 20% are unable to pay their rent or mortgage installments, and more than half must borrow money from family and friends.

Imposing such significant reductions of disposable income on families may have serious social and

cultural repercussions for children, as well as impacting negatively on children's opportunities as regards integration into Danish society.

A number of studies have shown that children of low-income families are considerably disadvantaged compared to other children as regards taking part in leisure activities and establishing social networks. This is especially true in the case of children – and in particular girls – of ethnic minority families¹⁶. The Council therefore views with great concern government plans to extend the 300-hours rule to 450 hours.

Cultural discrimination

Education, employment and leisure activities play a major role in the integration of immigrants into Danish society. But while equal opportunities exist formally for all citizens in Denmark, cultures do exist within these systems which make it difficult for immigrants to participate on an equal footing with other citizens. A study¹⁷ carried out by SFI – The Danish National Centre for Social Research reveals the clear existence of factors preventive of the inclusion of a number of ethnic minorities in these societal activities, and that such factors may be explained in terms of e.g. stereotype conceptions concerning gender and ethnicity. According to the report, discrimination may, for example, prevent young members of ethnic minority groups from gaining training placements in connection with vocational training programmes, thereby making it difficult for them to complete their training.

¹⁵ "300-timers reglen. Betydningen af 300-timersreglen for gifte kontanthjælpsmodtagere", Henning Bjerregård Bach & Brian Larsen, June 14 2008, SFI - The Danish National Centre for Social Research 08:17.

¹⁶ "Udsatte børns fritid. Et litteraturstudie", Karen Margrethe Dahl, SFI - The Danish National Centre for Social Research 07:16, June 2007.

¹⁷ "Køn, etnicitet og barrierer for integration. Fokus på uddannelse, arbejde og foreningsliv", Karen Margrethe Dahl & Vibeke Jakobsen, Copenhagen 2005, SFI, 05:01.

The National Council for Children therefore recommends that:

- *The government monitor children affected by the 300-hours rule and ensure that these children do not become subject to isolation and heightened social inequality. Such monitoring should be carried out in close cooperation with local authorities.*
- *The government strengthen its efforts to prevent and eradicate all forms of de facto discrimination of children of families of ethnic minority and children of refugees and asylum-seeking families.*

B. The best interests of the child (Article 3)

Children involved in crime

The tone of public debate has become increasingly hostile as regards children committing crime. Talk is of the need for more consistency and severity of punishment rather than of social and pedagogical initiatives. The Council is concerned about the harsh and irreconcilable nature of much input in the debate. Such new currents run counter to the essentially humanistic approach that has historically been characteristic of Danish judicial policy. The tendency is not consistent with the conceptual basis of the Convention on the Rights of the Child, and neither is it beneficial to children exhibiting criminal tendencies.

Preventive measures to keep children out of crime

In the spring of 2008, the National Council for Children approached the Minister of Justice and the Minister of Welfare to urge the adoption of measures encouraging local authorities to offer children increased protection against crime. A study undertaken by the Council reveals that measures to combat youth crime are accorded only low priority by the vast majority of local authorities. Only eight of the country's 98 municipalities have set up specific goals for the reduction of crime among children and young

adults. The National Council for Children holds that local authorities must demonstrate that they take youth crime seriously by laying down specific goals within the framework of the broader policy for children and young people that local authorities since 2006 have been committed to formulating.

A well-functioning SSP scheme – the preventive collaboration between schools, social authorities and police – is a crucial element in the fight against youth crime. However, SSP work is often marginally positioned and lacking a strong voice in local government. This means that preventive efforts against youth crime are accorded a similarly peripheral role in local authority priorities and decision-making processes.

The National Council for Children therefore recommends that:

- *The Social Services Act §19 – or the guide to the Act – be amended such that the efforts and goals of local authorities as to youth crime be clearly defined in local authority child policy.*
- *A national knowledge bank be established to function as a catalogue of inspiration for branches of local government working within the field of the criminal behaviour of young people.*
- *A secretariat be established for SSP collaboration at the national level.*

C. The child's right to survival and development (Article 6)

Poverty and inequality in health

A study¹⁸ carried out in 2009 shows that 59,000 children in Denmark live in poverty. This is the equivalent of 4.9% of all children in Denmark. Poverty may pose a threat to the health of the individual child. Research shows that poverty increases the risk of long-term health problems, psychosomatic symptoms and impairment¹⁹. Children living in poverty have a

¹⁸ "Børnefattigdom i Danmark 2002-2006", SFI - The Danish National Centre for Social Research, 2009.

¹⁹ "En ensom kamp. Et indblik i børns sundhed og trivsel med få penge", The National Council for Children and TrygFonden, June 2006.

higher risk of failing in school, becoming addicted to drugs and committing crime. Moreover, as a report by the Economic Council²⁰ concludes, children growing up in poverty suffer an increased risk of impoverishment in adulthood.

The National Council for Children therefore recommends that:

- *The government introduce a poverty threshold in Denmark, thereby providing for public debate founded on real facts and figures rather than myths and conjecture.*
- *The government assume responsibility for ensuring that children suffering from poverty receive special help and protection.*

Violence

Each year, an average of eight children under the age of 15 die as a result of active or passive maltreatment at the hands of their parents. The figure, revealed by a report in 2003²¹, probably underrepresents the actual number.

Many children living in refuge at crisis centres have witnessed their mother be exposed to violence, and figures from the national society of women's shelters, *Landsorganisationen af Kvindekrisecentre*, LOKK²², indicate that 52% of these children have themselves been victims of violence at the hands of family members. Regardless of whether the child itself has suffered violence or has merely witnessed violence committed against its mother or father, the child must be considered a victim in need of help. Studies of children who are victims of violence show that emotional reactions to attack or trauma are widespread, even in the case of very small children unable to put their experience into words. The government's special funding pool initiative of October 2008 ensures increased provision of psychological aid to children in shelters such that children under six years of age also may benefit. The Council welcomes

this agreement, but is concerned that the mother or father who is the victim of violence still has no legally guaranteed access to psychological care. The well-being of the parents is of crucial importance to that of the children and thereby also to their development.

The National Council for Children therefore recommends that:

- *Measures targeting violence against children should reflect the understanding that children who are witness to violence against a parent are also to be considered victims of that violence.*
- *An expert committee of investigation be set up to investigate all child deaths in which there exists doubt as to the cause of death.*
- *Violence against children be registered by the local authority, general practitioner and casualty department, and that this information be accessible in a central register.*

D. The child's right to be heard (Article 12)

The National Council for Children considers that there is still a long way to go before Article 12 of the Convention on the Rights of the Child is fully implemented in Denmark. Children themselves would like a wider extent of co-determination. A study²³ shows that six out of ten children would like more say in their schooling.

All local authorities are committed to drawing up coherent policy on children. Yet the nature of such policy remains uneven, and it is a regrettable fact that only a minority of local authorities have involved children in the process.

The wish of children to become involved is a potential gift to democracy and the local community. When adults create the right frameworks to enable children's commitment and expert knowledge to impact on local authority decision-making, the quality of such decisions will be measurably enhanced.

²⁰ Vismandsrapporten, Dansk Økonomi, Det økonomiske Råd, 2006.

²¹ "A League Table of Child Maltreatment Deaths in Rich Nations", UNICEF Innocenti Research Centre, Florence, 2003.

²² "LOKKs børnestatistik 2007. Børn på krisecenter", Eva Børjesson, The National Board of Social Services and LOKK, 2008.

²³ "Medbestemmelse i skolen 2007. The Children's Panel of the National Council for Children, 2007.

The National Council for Children therefore recommends that:

- *The government commit local authorities to ensuring that revision of child policy occurs in close interplay with the children of local communities, and that marginalised children also be involved in this process.*

IV. The right to family life and alternative care

A. The Act on Parental Responsibility (Article 9)

The National Council for Children was engaged in the preparatory work leading to new legislation on parental responsibility and was from the outset positive toward the Act, which entered into effect on October 1 2007, not least because Articles 3 and 12 of the convention receive clear legislative expression. The main cornerstone of the Act on Parental Responsibility consists in the fact that parents automatically are accorded common custody. Whereas previous legislation was founded on the right of parents to spend time with their children, the new Act is more concerned with the right of children to spend time with both parents. Moreover, the courts are now able to involve child experts in the preparation of cases concerning parental responsibility, thereby allowing greater focus than previously on reaching settlement in contested cases. The legislation thus proceeds from the interests of the child and is thereby more in accord with the Convention on the Rights of the Child than previous legislation in this area.

In its first year in effect, the Act on Parental Responsibility has been the subject of intense debate in the media, with individual cases being presented in which the law allegedly has proved detrimental to the children involved. The Council acknowledges the concern to which these cases have given rise. However, the Council does not believe that legislation should be revised before a thorough investigation of its effects has been carried out.

In connection with the passing of the Bill, the parliamentary political parties (all of whom supported

the Bill) agreed to initiate such an investigation, with results to be made public in 2011.

The National Council for Children therefore recommends that:

- *The government await the planned evaluation of the Act on Parental Responsibility in 2011 before taking steps to any change in the legislation.*

B. Children with parents in prison (Article 9, subsection 4)

There are somewhere between 4,000 and 7,000 children in Denmark whose mother or father is serving a prison sentence. 3% of all children have at some time during childhood experienced a parent being sentenced to imprisonment²⁴. This is a traumatic experience for these children. They react in the same way as children who have lost a parent due to illness or accident, yet they are by no means certain of receiving help in coping with their grief.

The National Council for Children is aware that certain improvements, for example concerning visiting conditions, have been made in recent years for children with imprisoned parents. However, not all children of imprisoned parents receive help, and there is a continued need for greater knowledge in the area as well as for a coherent set of initiatives targeting these children. The Council therefore focused on this problem by arranging conferences in 2007 and 2008 together with *Foreningen Savn* – an association for children and relatives of imprisoned persons – and the Danish Institute for Human Rights.

It is the opinion of the Council that greater

²⁴ Børns Familier, Statistics Denmark, 2008.

responsibility should be assumed by society to help the children of imprisoned persons. One way of doing so, as already seen in Sweden, is by appointing a children's representative among staff at each of the country's prisons. The representative receives proper training and is accorded responsibility for ensuring a high standard of visiting conditions for the children of inmates. Moreover, the Council considers that it should be obligatory to ask any person under arrest whether they have children, and subsequently to contact the family with regard to providing support to such children. At the same time, conditions for children's visits to prisons must be improved. Half an hour a week is inadequate for a child suffering due to the absence of a parent. More time would make it easier to maintain family bonds, to the benefit of inmate and child alike. One interesting initiative in this respect is the Danish Prison and Probation Service's "family house", *Pension Engelsborg*, where focus is placed on resocialisation by means of family therapy for both inmates and their families. Implementation of the family therapy initiative commenced in June 2005, and an assessment of the project's first three years shows positive results.

The National Council for Children therefore recommends that:

- *A common standard be adopted for information and support programmes available to the families of inmates.*
- *A children's representative be appointed among staff at all institutions under the Danish Prison and Probation Service.*
- *Knowledge-sharing and interdisciplinary efforts be initiated between police, the Danish Prison and Probation Service, and local authority social welfare departments with the aim of ensuring continuity and quality in all forms of contact with the families and children of inmates, including the provision of support initiatives.*
- *Inmates with children serve their sentences as close to*

the home as possible, and that visiting hours should reflect the child's right to direct contact with its parents.

- *Forms of serving sentence which minimise the separation of parent and child, and which emphasise resocialisation within the family, should be accorded priority.*
- *The Danish Prison and Probation Service in collaboration with child experts draw up a unified policy on children encompassing the area as a whole, and that implementation of such policy be accorded higher priority.*

C. Family reunification (Article 10)

Foreign citizens under the age of consent and whose parents enjoy permanent residence in Denmark may be granted a residence permit in the country in accordance with the rules on family reunification, providing certain conditions are fulfilled. One such condition is that the child must be under 15 years of age. Article 1 of the Convention on the Rights of the Child defines children as individuals under the age of 18.

The National Council for Children therefore recommends that:

- *The government ensure that Danish rules on family reunification live up to Article 1 of the Convention on the Rights of the Child, entailing that the age limit for family reunification be raised from 15 to 18 years.*

D. Placement of children in care (Article 9)

In the interests of the child's protection and development it may prove beneficial to the child to be separated from its parents for a shorter or more protracted period of time. In Denmark, some nine children per day are placed in care outside the family, amounting on an annual basis to approx. 15,000

²⁵ "Sammenbrud i anbringelser af unge. Risikofaktorer hos de unge, forældre, anbringelsessteder og i sagsbehandlingen.", T. Egelund & K. Vitus, SFI – The Danish National Centre for Social Research, 07:24, 2007.

children. However, studies show that case consideration prior to placement is often inadequate, which is one reason why an alarmingly large number of placements prove unstable. A study carried out by SFI – The Danish National Centre for Social Research²⁵ indicates that 41% of children placed with foster parents, in 24-hour care, or in social care homes experience a lack of stability in the caring environment. This runs counter to the very intention of placement. About one fourth of placements break down shortly after being established – either because the child leaves the placement or because the placement is forced to give up. Moreover, 15% experience other forms of instability such as planned changes in the placement.

A study carried out by the National Social Appeals Board²⁶ shows that mistakes are made in two out of three case considerations by local authorities in cases concerning the placement of children outside the home. These mistakes consist primarily in local authorities either wholly failing to carry out the obligatory §50 investigations of the child's overall situation, or carrying out these investigations unsystematically, inadequately and without inclusion of the child in the investigative process.

In the same study, the Board examines the extent to which local authorities draw up obligatory plans of action for placements on the basis of §50 investigations. Here, too, local authorities often fail to follow legislation.

Finally, in 2008 the National Social Appeals Board – at the instigation of the National Council for Children, UNICEF Denmark, Save the Children Denmark, and Børns Vilkår – carried out a national investigation of the extent to which local authorities uphold the law with respect to dealing with approaches and information given to the social authorities by members of the general public or trained staff (e.g. teachers and care workers) concerning children malprospering in the home²⁷. The

study finds that in six out of ten cases information received is clarified within a month, whereas in the remaining 40% of instances information received concerns cases already under consideration or already clarified. The National Council for Children remains in doubt as to whether the study as far as this point is concerned may be said to reflect real states of affairs in local authority case considerations. It should be noted that the figures employed were supplied to the Board by the local authorities themselves.

The Council therefore believes that these studies clearly confirm the existence of serious problems in the area of alternative care in Denmark. Provision of placements and local authority procedures concerning such provision cannot be deemed to serve the best interests of the child.

It is the opinion of the Council that there is a need for major focus on this issue. First and foremost, the government as well as local authorities must ensure the provision of wide-reaching preventive measures of the highest possible standard. Little impression seems to be made by legislation and documented knowledge. Despite good intentions in the legislation there is a need for major requalification of professional staff as well as management in local authority departments, care homes and other institutions.

Scientific knowledge in the area must be accorded a central role in decision-making processes at all levels. Quantitative and qualitative research in the field must be strengthened and developed so as to accord politicians, administrators and practitioners the best possible basis on which to make decisions.

Moreover, it will be necessary to ensure that social authorities have right of access to children in order able to implement investigations as to the child's situation in accordance with §50 and §51 of the Act on Social Services, regardless of whether parental consent is given. While it remains desirable that parents consent to the intervention of authorities, lack of such

²⁶ "Ankestyrelsens praksisundersøgelser. Anbringelse af børn og unge. Januar 2008." The National Social Appeals Board, 2008.

²⁷ "Ankestyrelsens undersøgelser. Kommunernes reaktioner ved underretninger m.v. om børn og unge. April 2008", The National Social Appeals Board, 2008.

consent must not result in unnecessary protraction of the individual case. Therefore, §50 of the Act on Social Services should be amended to the effect that “decision [as to whether §50 investigations should be carried out] *as far as possible* be made with the consent of the custody holder”. The pivotal issue should be the interests of the child rather than whether the custody holder has issued consent or otherwise.

The National Council for Children therefore recommends that:

- *The government ensure that local authorities uphold the Act on Social Services and accord with the intentions of the legislation.*
- *Professional staff in the field of social work be requalified with respect to child development and receive training so as to strengthen their abilities to work systematically and thereby become able to uphold legislative requirements as to documentation.*
- *Scientific knowledge in the field be regularly updated and extended.*
- *To ensure the best interests of the child, §50 of the Act on Social Services should be amended so as to allow §50 investigations to be carried out without the consent of the custody holder. The aim should be for remedial measures to be taken at an earlier stage in cases in which parents refuse to give their consent to investigation where such investigation is deemed necessary.*

E. Involvement of the child and the child’s access to appeal (Article 9, subsection 2, and Article 12)

According to the Act on Social Services, local authorities are required in all cases to hear the opinions of the child before making any decision that will have a bearing on that child. From the age of 12 years, the child has the right of complaint in relation

to choice of placement and amendment of such choice. When a child in placement reaches the age of 15 years, the child legally becomes a party in its own case and may be accorded free legal aid in connection with removal or dischargement from a placement. At the same time, the child is accorded right of insight into case documents and may express his or her opinion before decision is taken.

Children are thus – to a certain extent and in formal terms – legally entitled to be heard and have their opinions included in consideration of their case. In practice, however, according children real influence seems to be a matter of considerable difficulty. By no means all children are given the opportunity of discussion with a social worker in connection with consideration of their placement case. In 1994, only 54% of children between the ages of 7 and 11 years who were to be placed in care outside the home were given opportunity of discussion as a part of the consideration process²⁸. In 2002, only 44% of children placed in care at the age of 7 years had been afforded opportunity of discussion with social workers as to why they were being placed in care. This state-of-affairs was reported by the Council in its previous supplementary report to the UN Committee on the Rights of the Child.

The most recent study of practice from the National Social Appeals Board²⁹ reveals that interviews are still not carried out to a satisfactory extent, despite financial means having been earmarked for the area, and that all local authorities have spotlighted “communicating with children” via requalification of professional staff in recent years.

The National Council for Children does not believe that provision by the Act on Social Services concerning children’s right to be heard in placement cases lives up to the requirements of the Convention on the Rights of the Child as to child involvement. It is the opinion of the Council that the present threshold of 15 years is set too high. On the basis of a maturity

²⁸ "Når børn og unge anbringes. En undersøgelse af kommunernes praksis i anbringelsessager", Anne-Dorthe Hestbæk, SFI – The Danish National Centre for Social Research, 1997.

²⁹ "Ankestyrelsens praksisundersøgelser: Anbringelse af børn og unge", The National Social Appeals Board, 2008.

criterion, many children under the age of 15 whose situation is deemed unsatisfactory, could certainly be accorded legal status as a party in their case, not least with the support of a legal adviser.

The National Council for Children therefore recommends that:

- *The threshold for according children legal status as a party in their case be lowered to 12 years, at which age the child be accorded all rights and authority attendant to such legal status, e.g. right of insight and free legal aid.*
- *The government ensure that local authorities uphold the Act on Social Services such that interviews made obligatory by the Act are carried out in all cases concerning placement outside the home – including such cases as involve small children.*

In October 2003, the National Council for Children drew up a memorandum to the parliamentary Legal Affairs Committee concerning children's access to complaint, which made it clear that children under the age of 15 years to all intents and purposes enjoy no right of complaint in cases of social welfare to which they are party. An amendment of the Act on Social Services has – as noted above – moderately improved access to complaint procedures for children in cases concerning social welfare, with children of 12 years now enjoying the right of complaint as to where they are to be placed as well as any amendment of such decision. Yet this remains insufficient. There are still a number of areas in which children regardless of age should be accorded the right of complaint.

The National Council for Children therefore recommends that:

- *The government make determined effort to reinforce children's access to complaint, thereby strengthening both the legal status of the child and its freedom of*

action when involved in a case of social welfare with the local authority.

F. Children in care (Article 20)

In 2007, the National Social Appeals Board mapped placement of children in Denmark³⁰. The figures show that almost 15,000 children are placed in care outside the home. In 2007, local authorities decided in favour of placement outside the home in 3,245 cases. Children between the ages of 12 and 17 years account for 70% of such new placements. 10% of new placements involve small children up to the age of 3 years, while 20% involve children between the ages of 4 and 11 years. In the perspective of existing research, documentation as to the effects of placement is lacking. The National Council for Children finds cause for concern in the fact that there exists no scientific justification for the assumption that placing a child in care outside the home is preferable to refraining from such action. Similarly, there is a lack of scientific knowledge as to the significance of the child's age in relation to the effect of placement.

In its general comment in 2005, the UN Committee on the Rights of the Child indicates³¹ that government has a duty to ensure that "devolved authorities do have the necessary financial, human and other resources [...] for the implementation of the Convention." Yet all too often state and local authorities dispute responsibility for the marginalised child and in such disputes the child often ends up being thrown backwards and forwards between the two parties.

One example of this problem can be seen in the National Social Appeals Board's statistics on placement, which show that just as in 2006, there was a fall in 2007 in the number of placements during the final months of the year. A study by the Danish Association of Social Workers³² confirms this

³⁰ "Ankestyrelsens statistikker: Børn og unge anbragt uden for hjemmet. Årsstatistik 2007", The National Social Appeals Board, September 2008.

³¹ United Nations, General Comment No. 5 (2003), points 40 and 41.

³² "Undersøgelse om økonomi og faglighed i børnesager: Hver anden socialrådgiver har oplevet, at økonomien afgør indsatsen i børnesager, og at det forringer deres mulighed for at varetage barnets tarv." The Danish Association of Social Workers, 2008.

tendency, and one in two social workers responded that financial concerns were more decisive than professional judgements in cases of placement.

The National Council for Children therefore recommends that:

- *The government take steps to reinforce and further develop scientific knowledge as to the various aspects of placement in care outside the home, thereby providing for greater comparability and overview.*
- *The government ensure that local authorities uphold the Act on Social Services and accord with the intentions of the Act, allowing the interests of the child, rather than those of local authority finance, to a greater extent than is the case at present to form the basis of decision as to whether the child should be placed in care outside the home.*

Monitoring of the child in care (Article 25)

Monitoring in cases of placement is carried out in two ways; individual monitoring directly targets the child, whereas general monitoring targets the institution. According to the Act on Social Services, the local authority in which the placement is located is required to monitor the placement residence and ensure that it conforms to the standards applied in its approval. The national association of placement residences, *Landsforeningen af Opholdssteder*, questioned 133 of its members about monitoring, and 28% of the institutions questioned responded that they had not been subject to visitation with respect to monitoring in 2007. 28% had received one visit, 17% had received two visits, while 27% had received three or more visits by monitoring authorities.

Individual monitoring is in the hands of the child's own local authority. The authority is required to carry out regular checks to ensure that the child in

placement prospers and develops according to the intentions laid out in plans of action. According to the Act on Social Services, such monitoring is to be carried out by the local authority at least once a year. The National Council for Children considers that the stipulated minimum frequency of monitoring is inadequate, since more frequent monitoring would allow local authorities to nip in the bud any occurring problems or inappropriate developments. A study by SFI – The Danish National Centre for Social Research in 2004³³ shows that 13% of all children in placement between the ages of 0 and 7 years receive monitoring visits less than once every six months. In 19% of all visits, monitors rarely or never speak with the child.

Another study by SFI – The Danish National Centre for Social Research³⁴ moreover reveals that despite placement in care outside the home, the children so placed continue to experience psychological, social and educational problems as well as problems of physical health. Often they lose contact with family, and the parents of children in care are considerably disadvantaged in relation to those of the child's peers. 89% of children in care suffer psychological problems, problems of concentration, speech difficulties or conflict with teachers or other pupils. Almost half of the children in care receive remedial education, as opposed to only 9% for all other children. The National Council for Children considers that more frequent monitoring will make the child's situation apparent at an earlier stage than at present and thereby heighten the probability of making an appropriate response.

In a memorandum to the Ministry of Social Affairs dated May 5 2003 concerning suggestions by children formerly in care as to quality in placement, TABUKA, an association of children and young adults presently or formerly placed in care outside the home,

33 "Små børn anbragt uden for hjemmet. En forløbsundersøgelse af anbragte børn født i 1995", Tine Egelund, Anne-Dorthe Hestbæk & Dines Andersen, SFI – The Danish National Centre for Social Research, Copenhagen, 2004.

34 "Anbragte børns sundhed og skolegang. Udviklingen efter anbringelsesreformen", Mai Hede Ottosen & Pernille Skovbo Christensen, SFI – The Danish National Centre for Social Research 08:21, September 2008, and "Anbragte børns udvikling og vilkår", Tine Egelund, Dines Andersen, Anne-Dorthe Hestbæk, Mette Laustsen, Lajla Knudsen, Rikke Fuglsang and Fredrik Gerstoft, SFI – The Danish National Centre for Social Research, October 2008.

recommends involving on a trial basis contact persons for all children placed in care. Such a trial would have the aim of shaping a system of contact persons in such a way that the contact person does not merely become yet another adult in the life of the child, a presence rendering more opaque the distribution of tasks and competencies in respect of the child.

The National Council for Children therefore recommends that:

- *All children placed in care outside the home are assigned their own contact person who independently of the placement authority may speak on behalf of the child, listen to the child and play a part in establishing continuity, despite any change as to the location of the placement.*
- *Individual monitoring of children in placement be carried out with greater frequency and the quality of monitoring be enhanced.*
- *Monitoring of institutions and foster families be made independent in order to avoid any conflict of interests.*

G. The child's right of protection against violence (Article 19)

In 1997, the right to inflict corporal punishment was abolished in Denmark. However, a study carried out by the Children's Panel³⁵ reveals that many children still believe that parents are entitled to inflict corporal punishment on their children. The study shows also that 13% of children in Denmark have been subjected to corporal punishment in the home, and that just as many have been threatened with such punishment. 40% of children experience manhandling at the hands of parents, and for one in four this is a frequently recurring phenomenon. One in five children know other children who have been threatened with corporal punishment, while 16% know children who have suffered such punishment. Half the children questioned say they are regularly shouted at.

The National Council for Children therefore recommends that:

- *The government step up the provision of public information to children as to their right to an upbringing without physical or mental punishment, and concerning access to help and support provided by the authorities.*

As previously stated in this report, eight children under the age of 15 years die each year as a result of active or passive maltreatment by parents. The figure, revealed by a report carried out in 2003³⁶, probably underrepresents the actual number. Furthermore, as the Council made clear in its previous report to the UN Committee on the Rights of the Child, there is a need for further efforts to stop violence directed toward children in Denmark.

The National Council for Children therefore recommends that the government take measures to supplement the government's own "Plan of Action for the Maltreatment of Children", which the Minister of Social Affairs launched in 2004:

- *A central register of reported instances of violence toward children.*
- *An team of experts at the disposal of the responsible authorities to take action on information as to child maltreatment and empowered to take initiative on its own accord.*
- *Provision of in-depth knowledge in the contexts of basic training and requalification within the social welfare and health sector as well as in the field of education; guidelines to be drawn up on the basis of updated knowledge.*

H. Protection from sexual abuse (Article 19 and 34)

The National Council for Children recognises that the present government has carried through a series of measures of a both practical and legislative nature, as

³⁵ "Opdragelse 2007. Børnerådets Børne- og Ungepanel", The National Council for Children 2007.

³⁶ "A League Table of Child Maltreatment Deaths in Rich Nations", UNICEF Innocenti Research Centre, Florence, 2003.

well as initiatives pertaining to scientific research, which considerably enhance the security of the child in this area.

There is now a pressing need for revision and updating of the government's plan of action of August 2003 for combating sexual abuse of children.

A renewed plan of action should aim to strengthen educational policy initiatives in the area. Only by gaining in-depth understanding of the issue as part of professional training will relevant professional groups (teachers, child workers, health workers, etc.) be able to contribute to the prevention and solution of problems of sexual abuse.

Experience continues to show that abused children encounter major difficulties finding the prompt and appropriate help to which they are entitled under the Act on Social Services, cf. section IV C on the placement of children in care outside the home. The recommendations outlined in section IV C are therefore highly relevant in this area, too, particularly as regards the obligatory §50 investigations.

Children involved in cases of sexual abuse and violence must be treated with great consideration and with respect for their particular situation and background. They are entitled to protection while investigations are carried out, to witness under conditions that take into account their best interests, and to long-term psychosocial support to the extent that this is deemed necessary. In the interests of ensuring holistic case consideration and in order to avoid shuttling the child between authorities, the National Council for Children has long since recommended that processing of such cases be gathered at a geographically appropriate location for the child. It is the Council's opinion that a holistic solution of the problem requires relevant collaborating authorities to assume common ownership and responsibility in respect of the problem. As a prerequisite of such collaboration, a formalised

collaborative framework should be adopted by relevant authorities within the primary sector, the health sector, police and judiciary.

In Iceland³⁷ and the USA (the San Diego model) authorities have for some years now worked within a framework of so-called Children's Houses, and in Sweden and Norway progress has been made with similar model, the so-called *Barnahus*³⁸. In Denmark, the Århus University Hospital at Skejby set up a specialist center for children exposed to physical or sexual abuse, *Center for Børn udsat for Overgreb* (CBO)³⁹, a collaborative initiative involving regional police, the Institute of Forensic Medicine and the hospital's own children's department. The three institutions share common facilities at the hospital where investigation and treatment of children exposed to physical or sexual abuse may take place. Collaborative efforts with local authority administration, however, have yet to be fully formalised. In Copenhagen, the Rigshospital's team for sexually abused children, *Rigshospitalets Team for Seksuelt Misbrugte Børn*, have for some years gathered insight and experience applying a restricted intersectorial approach to the problem.

The National Council for Children recommends on this basis that:

- *The government assess and update its August 2003 plan of action "Regeringens handleplan om bekæmpelse af seksuelt misbrug mod børn".*
- *The government reinforce educational policy initiatives with respect to relevant professional groups in order to enhance protective measures for children, particularly disabled children.*
- *On the basis of experience gained abroad and in Denmark, the government assist in establishing an intersectorial, holistically oriented and child-targeted treatment of children exposed to sexual abuse and to violence.*

³⁷ http://www.bra.se/extra/pod/?action=pod_show&id=63&module_instance=12.

³⁸ "Det bliver nog bedre for barnen ..." Slutrapport i utvärderingen av nationell försöksverksamhet med barnahus 2006-2007. Karsten Åström & Annika Rejmer, Research Report in Sociology of Law, Lund University 2008:7.

³⁹ http://www.sundhed.dk/wps/portal/_s.155/1918?_ARTIKELGRUPPE_ID_=1051071105143803

V. The child's health, well-being and welfare

A. General well-being

Danish children place particular emphasis on close social relations⁴⁰; good friends and a caring family with attentive parents. However, one third of children believe that one or both parents often appear stressful, a circumstance the children find problematic given their desire to spend time with their parents, playing, talking and generally enjoying themselves together.

Studies carried out by the Council⁴¹ show that one third of pupils in 6th grade often or always feel different from their classmates and believe that they prosper to a lesser degree than their classmates. The same studies also reveal that the extent to which non-Danish ethnic background and religion are considered significant varies greatly; children of Danish background do not appear to attach any particular significance to ethnicity. Children belonging to minority groups themselves experience ethnic background as constituting a far more significant point of difference.

Children's mental health was the subject of a study by the Council's Children's Panel in 2009⁴². The study shows that more than one in four pupils suffer from headache at least once a week, that more than one in five have felt dejected or depressed at least once a week, and that one in four feel stressed once a week or more. More than one third of pupils have taken headache tablets on a single occasion and 14% on several occasions. Moreover, many children report feeling insecure in their environment – depending on time and place, the share ranges from approx. half to 80%. The study reveals many strong correlations

between symptoms and reactions, indicating that isolated problems of well-being or mental health are seldom. The children report that meaningful social relations, particularly within the family, exert a strong influence on children's life quality.

In December 2005, the government set up its *Familie- og Arbejdslivskommissionen*, a commission whose main brief was to identify and analyse the primary barriers to Danes establishing a balance between family life and work. The work of the commission resulted in May 2007 in 31 specific recommendations having direct or indirect positive impact on children.

The National Council for Children recommends on this basis that:

- *The government incorporate to the widest extent possible the recommendations of its commission on family life and work, such that:*
- *All parents are accorded the right by law to tend to their child on the first day of the child's falling ill.*
- *The parties of the labour market agree several days of paid absence in the case of the child's falling ill.*
- *Parents of children under the age of 14 years be accorded the right by law to spend at least two weeks' holiday each year with their children.*

B. Marked for life

Together with The Danish Council of Ethics, the National Council for Children has published *Mærker for Livet* [Marked for Life]⁴³, an educational pamphlet aimed at children in 9th and 10th grade. The title refers to corporal modification without medical

⁴⁰ "Portræt af 5. klasse. Børne og Ungepanel", The National Council for Children, January 2007.

⁴¹ "Forskelligheder og fællesskab. Børnerådets Børne- og Ungepanel", The National Council for Children, 2008.

⁴² "Mental sundhed 2009 – at føle man er noget værd". The National Council for Children, 2009.

⁴³ "Mærker for livet. Tatovering, piercing og omskæring. Et undervisnings- og demokratiprojekt for 9. og 10. klasser. Tilrettelagt af Det Ethiske Råde og Børnerådet", The Danish Council of Ethics and The National Council for Children, 20

justification. e.g. tattoos, piercing, circumcision and scarring. The aim of the pamphlet is to encourage ethical debate and motivate active consideration of forms of corporal modification which cannot be undone, or which may be undone only with great difficulty.

Piercing

The National Council for Children and The Danish Council of Ethics organised a day of debate in May 2007 with focus on children's attitudes to the body and to appearance based on lifestyle and affiliation. The main theme of the day was corporal modification without medical justification, including the circumcision of boys, piercing and tattooing, as well as cosmetic surgery. The aim of the Councils was to spotlight the background in cases of corporal modification and to stimulate discussion as to who draws the line – or ought to draw the line – in particular in the case of children.

The resultant debate revealed that many were of the opinion that the area lacks significant focus. Members of the piercing and tattooing branches themselves pointed to a need for enhanced regulatory measures as to hygienic requirements to clinics carrying out tattooing and piercing, as well as highlighting a need to fix age limits. As things stand today, the area lacks both health authority regulation and branch monitoring, just as legislation makes no reference to age limits for piercing.

The National Council for Children therefore recommends that:

- *The government introduce age limits for piercing or certain forms of piercing.*
- *The government set up a framework for commercial piercing and tattooing enterprises to include requirements as to hygiene and monitoring of clinics.*

Circumcision

The issue of circumcision of boys is one that is often raised. In essence, the primary discussion concerns the child's right of determination in respect of his or her own body. On this issue, the stance taken by the National Council for Children is one of championing children's rights as these are described in Article 24 of the Convention on the Rights of the Child.

The Council finds that any modification of the child's body without medical justification comprises a breach of the rights and liberties of all children.

The National Council for Children therefore recommends that:

- *All children closely consider the advantages and disadvantages of allowing and performing such forms of corporal modification.*
- *An extensive campaign of information be initiated as to this and related issues (piercing, tattooing, etc.), aimed at both children and adults.*
- *Circumcision of boys only be allowed in the case of boys having reached the age of 15 years, and that in accordance with the provisions of health legislation such circumcision be made conditional upon informed consent.⁴⁴*

C. Overweight and physical inactivity

Almost one in five Danish children weigh more than they should, and these children's overweight has psychological as well as physical consequences. Overweight in childhood heightens the risk of serious illness later in life, and overweight children are more often struck by low self-esteem as well as being more exposed to teasing⁴⁵.

A panel study by the Council⁴⁶ reveals that one in ten 8th grade pupils consider themselves to be

⁴⁴ §17: A patient having reached the age of 15 years may grant his or her informed consent to treatment. The custody holder shall also be informed, cf. §16, and be involved in the minor's consideration. (Informed consent is to be understood as consent granted on the basis of complete information provided by the health worker.)

⁴⁵ The National Board of Health campaign "En lettere barndom", www.enletterebarndom.dk

overweight. A majority of these children are teased, feel lonely and often dejected.

The study shows also that there is widespread agreement as to who should be responsible for ensuring that overweight children lose weight, viz. the children themselves and their parents, but also friends and health visitors have a role to play in this respect, children believe.

The National Council for Children, which in 2007 co-organised the conference "24 Active Hours in the Service of the Inactive Child", believes that part of the problem of children's overweight lies in these children's lack of activity and exercise during the course of their day. For this reason, we must expand our field of vision to include the broader frameworks within which such children, regardless of social background, function in their everyday life. This may include such contexts as the bicycle path, the playground or the recreation centre. Overweight children cannot remedy their inactivity on their own. Everyone has a part to play in supporting and developing children's physical activity and health. However, this can only be achieved provided the right basis and the right frameworks are present.

The National Council for Children therefore recommends that:

- *The government strengthen its efforts to combat overweight among children in Denmark.*
- *The government ensure good health care provision for all children in daycare, in schools and in recreational programmes. Initiatives promoting good health should be incorporated as a natural element of the daily life of children. Access to health care workers, to fruit and vegetables, and healthy food and drink should all be a focus of such efforts, as should ensuring that children are accorded adequate opportunities of engaging in physical activity.*

- *Children be protected against advertising for unhealthy eating and drinking habits.*

D. Children's alcohol and smoking habits

The detrimental effects of smoking and of smoking at an early age are well-documented, and the National Council of Children supports measures seeking to further reduce the use of tobacco among children as well as efforts to ensure that smoking does not occur at an early age. The Council therefore supported the legislative amendment which in the autumn of 2008 raised the age limit for tobacco purchases to 18 years. The Council believes that the amendment will result in fewer smokers among children in Denmark.

The Council has encouraged the Minister of Health to consider similar rules governing the sale of alcohol⁴⁷, such that a ban be introduced on the sale of alcohol to persons under the age of 18 years. The harmful effects of alcohol and of early use of alcohol are similarly well-documented, and a common ban would send a clear signal to children as to society's standpoint on alcohol and smoking. A common age limit would furthermore be beneficial with respect to enhancing insight into tobacco and alcohol.

The National Board of Health believes⁴⁸ that the introduction in 2004 of a ban on the sale of alcohol to persons under the age of 16 years has significantly reduced the purchase of alcohol by 14 and 15 year-olds. The National Council for Children considers that a ban on the sale of alcohol to persons under 18 years would further this positive tendency, which would seem to have resulted from the ban on sales to persons under 16 years. Alcohol consumption does, however, remain high among children under 16 years, and Danish children still exhibit the highest rate of alcohol consumption in Europe⁴⁹.

⁴⁶ "Sundhed i 8. klasse. Børnerådets Børne- og Ungepanel", The National Council for Children, 2005.

⁴⁷ Høringssvar vedr. forslag til lov om ændring af forskellige tobakslove, The National Council for Children, March 11 2008, j-nr.3.4-2006-1133.

⁴⁸ "Undersøgelse af 11-15-åriges livsstil og sundhedsvaner 1997-2006", The National Board of Health.

⁴⁹ The World Health Organisation's alcohol database can be viewed at <http://data.euro.who.int/alcohol/?TabID=2421>.

The National Council for Children therefore recommends that:

- *The age limit for alcohol purchase be raised to 18 years.*

E. Social inequality and health

Research has shown that poverty as one element of social inequality increases the risk of long-term health problems, psychosomatic symptoms and impairment⁵⁰. Children have a higher risk of failing in school, of becoming addicted to drugs and of committing crime.

The reader is referred to section III. C. of the present report.

F. Mental illness

There is a paucity of knowledge as to the incidence and nature of problems of mental health among children. In the case of anxiety in particular there are no exact figures, though foreign studies reveal that between 10 and 17% of all children develop anxiety impacting seriously on their daily lives⁵¹. The *Copenhagen Child Anxiety Project*⁵² at the University of Copenhagen has embarked upon research aiming to shed more light on the problem.

National and international studies indicate that 10-15% of children suffer mental difficulty, of whom only a minority have need of psychiatric evaluation or treatment. According to the National Board of Health⁵³, however, there is a need for greater capacity in the provision of child psychiatry, and the Board recommends aiming at increasing capacity to a level allowing for inclusion of 1-2% of the child population as against the present level of 0.8%.

Waiting lists

The number of children referred to psychiatric treatment has risen by 163% since 1996⁵⁴, and never before have so many children been treated for mental illness by Danish hospitals. In 2007, 11,665 children were treated, as against 10,998 the previous year. Figures supplied by the Danish Regions show that in 2009 more than 2,500 children were awaiting treatment for mental illness.

The Minister of Health has initiated a treatment guarantee for children suffering from mental illness, according children the right to evaluation and treatment in the private sector in the event that such evaluation and treatment cannot be offered by a public hospital within two months. According to the Danish Regions, almost half of all children referred to treatment wait more than two months. The National Council for Children fears that no treatment guarantee will be able to remedy the problem, since the number of practising child psychiatrists and psychiatric nurses is small, and public and private sector institutions will merely compete for their services. Moreover, there is a risk of reduced professional skills in the private sector, since private clinics do not require authorisation. Therefore, in addition to the treatment guarantee, the Minister of Health should find further, permanent solutions to the problem, for instance by stepping up efforts within local authority pedagogical-psychological counselling (PPR). By reinforcing efforts in relation to children diagnosed as suffering from ADHD, for example, PPR counselling services could provide partial remedy to the problem.

Children admitted to adult psychiatric wards

As the Council pointed out in its previous

⁵⁰ "En ensom kamp. Et indblik i børns sundhed og trivsel i familier med få penge", The National Council for Children and TrygFonden, June 2006.

⁵¹ Leth, I & Esbjørn, B. H. (2008): Når børn udvikler angst. In Jes Gerlach (ed.): *Angstbogen – angstens symptomer, årsager og behandling*. Psykiatrifondens Forlag, København, 2008.

⁵² <http://ccap.psy.ku.dk/>

⁵³ Statusnotat fra Sundhedsstyrelsens opfølgingsgruppe: "Udvikling i den børne- og ungdomspsykiatriske virksomhed 2007".

⁵⁴ "Udviklingen i den børne- og ungdomspsykiatriske virksomhed 2008", The National Board of Health, October 2008.

supplementary report, children suffering from mental illness continue to be admitted to adult psychiatric wards. In 2006, there were some 130 fewer instances of 24-hour admissions of children to adult psychiatric wards compared to the previous year. However, children are still widely admitted to adult wards – according to the National Board of Health⁵⁵, 17% of all children admitted for treatment were admitted to adult psychiatric wards.

Children of parents suffering from mental illness

Between 50,000 and 80,000 children in Denmark come from homes in which one or both parents suffer from mental illness⁵⁶. Some of these children grow up in families constantly subject to social isolation, chaos, stressful events, abuse and absurd norms, all of which children may find highly disturbing and difficult to comprehend.⁵⁷ Common to all these children is the fact that they have need of support and knowledge about mental illness, tailored to their age and wider situation.

The National Council for Children recommends on this basis that:

- *The government account for how it intends to provide a permanent solution to the problem of capacity and effectively reduce waiting lists for psychiatric treatment of children.*
- *The government halt privatisation within the field of child psychiatry in the interests of its treatment guarantee.*
- *The government set up an effective programme of collaboration between educational, social and health sectors and ensure an appropriate and clearly defined distribution of competencies between regional and local administrations (PPR counselling).*
- *The government ensure the provision of professional*

knowledge as to e.g. the incidence of problems of mental health among children, including in particular the extent and consequences of anxiety among children.

- *The government support measures aiming at helping children whose parents suffer from mental illness.*

⁵⁵ Statusnotat fra Sundhedsstyrelsens opfølgingsgruppe: "Udviklingen i den børne- og ungdomspsykiatriske virksomhed 2007".

⁵⁶ Psykiatri Information, September 2008, 3. Psykiatrifonden

⁵⁷ Socialt Udviklingscenter, www.barn-i-fokus.dk

VI. Education, leisure and cultural activities

A. The child's environment and the educational environment

Following an amendment to daycare legislation in 2007, children attending daycare and recreational institutions should be provided with a physical and aesthetic environment that may prove beneficial to their well-being, health, development and learning. In all cases, written assessments of the child's environment must be drawn up, including a mapping of the specific environment in question. The assessment must outline any problems that may exist and include a plan of action. As yet, no studies exist to enable a collective overview of children's environments in daycare provision. However, on the basis of specific complaints it may be anticipated that assessments will reveal major problems concerning e.g. noise and lack of space. The National Council for Children welcomes this legislation and will closely monitor its implementation.

The physical environment in schools

It is a well-documented fact⁵⁸ that the physical environment in schools suffers from lack of maintenance and increasingly run-down classrooms and facilities.

A recent investigation in 2009 by the Children's Panel of the National Council for Children concerning the physical environment in schools shows that major problems exist as to hygiene in school toilets throughout the country.

Two out of three pupils consider the physical environment of their school to be unsatisfactory, and

more than half (56%) of pupils always or often find school toilets off-putting, just as 62% report that school toilets always or often are malodorous. Children report that toilets lack soap, toilet paper, hot water and cubicle doors. Moreover, urine, faeces and used menstruation towels occur on floors, toilet seats and walls.

One in three pupils report that the state of school toilets means that they always or often refrain from using them, preferring instead to wait, while one in four states that this is an occasional occurrence. Girls in particular tend to refrain from using school toilets. For 30% of pupils, refraining from using the toilet in this way is a direct cause of them sometimes or often experiencing difficulty concentrating in class.

The National Council for Children has previously noted that present legislation on the educational environment is inadequate in relation to these serious problems.

Teachers and the social well-being of children

In 2008, the Minister of Education issued a proposal for an executive order concerning measures to promote good order in schools. The proposal extends the range of the existing ban on corporal punishment to include humiliating treatment of pupils. The wording of this proposal points to an improvement in conditions accorded to Danish schoolchildren, and the National Council for Children approves of this part of the proposal, which reflects a new and better understanding of the significance of the educational environment for pupils' learning.

Statistical evidence supplied by the Danish Centre

⁵⁸ See e.g. www.dcum.dk, www.skoleelever.dk, http://www.bra.se/extra/pod/?action=pod_show&id=63&module_instance=12, <http://www.dr.dk/nyheder/htm/baggrund/generel/sundhedsvaner.pdf>

of Educational Environment (DCUM) shows that the number of children who feel bullied by their teacher is alarmingly high.

More than 43,000 pupils in 4th – 10th grade responded to questions relating to their educational environment in the period 1 August 2007 to 11 April 2008. 16% responded that they had felt themselves subject to bullying by a teacher within the previous two months. Similarly, a study carried out in 2004 by the Children's Panel of the National Council for Children shows that a number of pupils feel exposed to bullying on the part of a teacher. At the same time, the study reveals that children who feel themselves subject to bullying by teachers often are children who already experience bullying at the hands of schoolmates. The incidents referred to by these figures may of course vary considerably in nature. However, the Council finds it necessary to investigate these states-of-affairs closer with a view to widening knowledge in the area.

The National Council for Children therefore recommends that:

- *Children be accorded the same protection as adults already enjoy under the law on the working environment, regarding both the physical and psychological child environment, access to complaint, definition of responsibility, and sanctions.*

The Council asked 1,100 members of the Children's Panel how they experienced bullying in their daily lives. The children, all of whom attended 6th grade, responded to the effect that bullying comprises a very real and serious problem. The study⁵⁹ indicates that more than 25% of all Danish children have experienced bullying within the past couple of months. Approximately 9% report that they have been bullied several times during the previous month. Children who bully are often bullied themselves. The study shows that one in four children who often bully, i.e. a

couple of times a week, are themselves bullied several times a month. Regrettably, the children's responses also show that 27% are at a loss as to what to do when they experience others being bullied. Almost one third of all schoolchildren do not know what to do if they themselves are subjected to bullying.

The Danish Centre of Educational Environment (DCUM) has conducted an analysis of plans of action drawn up by 50 randomly selected schools with a view to combating bullying. The analysis shows that only half of these schools pass a quality control. Plans drawn up by the remaining half fail on the grounds of inadequate preventive measures, uncertain plans for intervention, and a lack of executive interest in anti-bullying efforts⁶⁰.

In the case of bullying, too, the National Council for Children considers legislation on the educational environment to be inadequate. The law fails to clearly assign responsibility to school executives and boards, and it includes no sanctions or means of compulsion in cases in which schools fail to uphold the law, a fact to which the Council drew attention in its previous report to the UN Committee on the Rights of the Child.

The National Council for Children therefore recommends that:

- *Research be undertaken with a view to illuminating and evaluating existing national measures to combat bullying, as well as the utility value of a range of educational and social-pedagogical methods, and moreover to investigate the significance of parents' and teachers' roles as to the extent of bullying.*
- *Local authorities be obliged to draw up strategies to combat bullying, and that these be integrated into local authority child policy.*
- *Schools be obliged to incorporate the obligatory environmental assessment in the annual quality reports to the Ministry of Education.*

⁵⁹ "Mobning 2008. Børnerådets Børne- og Ungepanel.", The National Council for Children, March 2008.

⁶⁰ "Undersøgelse af handleplaner mod mobning: Hver anden handleplan mod mobning er en ommer", Klaus Henriksen, DCUM, www.sammenmodmobning.dk

B. The schooling of children placed in care outside the home

9,000 children of school age are presently placed in care outside the home. The report *Anbragte børns undervisning* [Eng. The schooling of children placed in care outside the home]⁶¹ shows that the majority of these children attend school, yet experience greater difficulties at school than their peers. Many have difficulty keeping up with schoolwork, and many experience having to repeat a school year. A majority among them feel a lack of well-being in school. According to placement institutions, 89% of children in care who attend school suffer problems of mental health, have difficulty concentrating, suffer difficulties of speech or experience conflict with teachers or other pupils. On the whole, children in care are more disadvantaged in school than children not in care.

C. Children without schooling

A small percentage – though in real terms a large number – of children of school age appear not to receive teaching as laid out in the Act on the Danish Folkeskole §34⁶² or else receive only sparse individual teaching. A national study⁶³ reveals major problems in several areas:

Among local education authorities, registration practice is in the main less than homogeneous. For instance, 9% of all such authorities fail to live up to legislative regulations on the monitoring of school attendance.

In calculating the number of children who for longer periods do not attend school, a distinction is made between children attending the Folkeskole and children attending some other teaching programme.

The number of children registered by local education authorities as not receiving any form of teaching at all in the period 1 September 2006 to 30 April 2007 comprises 0.10% of those children subject to compulsory school attendance who are represented in the study. On a national level, and in absolute terms, this is the equivalent of some 600 children. The study does not reveal the extent of time that passes before these children are provided with schooling, but shows merely that they have been registered as being without schooling at least once during the period in which the study was carried out.

Absence of children attending the Folkeskole was identified by means of daily registration. Figures show that 1.21% of children attending the Folkeskole were absent without permission for more than 20 days. On a national level, this corresponds in absolute terms to approx. 6,300 children, of whom 8%, corresponding to approx. 500 children, were absent for more than 90 days in the period. Local education authorities were also asked to indicate their own results of surveys of absence. These figures are based on information supplied by the individual schools. The incidence of absence without permission registered by the schools (1.21%) is, however, more than three times as high as that registered by local education authorities (0.38%).

SFI – The Danish National Centre for Social Research conducted a survey of school-age children placed in care outside the home in 2006. The survey indicates that a number of children placed in care in Denmark do not receive the schooling to which they are entitled⁶⁴. Thus, the SFI reports that the nature of schooling received at the time of the survey remained unknown in the case of 10-15% of those 7-16 year-olds who were not receiving schooling, either in the Folkeskole or in any special school, prior to their

61 "Anbragte børns undervisning. Sammenfatning af tre delrapporter", Dines Andersen, Marie Dam Mortensen, Annete Sejer Perthou & Maja Natacha Neerbeck, SFI – The Danish National Centre for Social Research 08:26, November 2008.

62 "School attendance shall be compulsory from August 1 of the calendar year in which the child reaches the age of 7 years, and shall cease to be compulsory on July 31 providing the child has received regular teaching for a period of nine years, not including teaching received in pre-school class."

63 "Børn, der gennem længere tid ikke modtager undervisning", Muusmann Research and Consulting on behalf of the Danish Ministry of Education, 2008.

64 "Anbragte børns undervisning. Sammenfatning af tre delrapporter", Dines Andersen, Marie Dam Mortensen, Annete Sejer Perthou & Maja Natacha Neerbeck, SFI – The Danish National Centre for Social Research 08:26, November 2008.

being placed in care.

Children without schooling and children only loosely associated with any school risk losing opportunities enjoyed by their peers for getting on in life. They risk becoming entrenched in social inequality, since they do not receive the necessary educational skills that may help them on to further education.

Moreover, lack of schooling is accompanied by a high risk of becoming involved in crime.

In 2008, the Minister of Education promised closer investigations, together with the Ministry of Welfare and Local Government Denmark, of ways in which to reduce the number of children not receiving schooling.

The National Council for Children therefore recommends that:

- *The Minister of Education as soon as possible honour his commitment and draw up measurable plans of action with regard to reducing the number of children not receiving schooling. The specific targets should be assessed within a set period of time.*

D. Children's right to be heard and access to complaint in schools

There have been no improvements concerning the influence of schoolchildren on their schooling since the National Council for Children's supplementary reports to the UN Committee on the Rights of the Child in 2000 and 2004. Pupils still want to be listened to more and to have more influence in school. In 2007, the Council surveyed 1,100 schoolchildren in 5th grade as to their say on decision-making in school. More than half the children surveyed considered that they had too little influence and would like more. All of 30% had no idea what kind of work their pupils' association conducted. 8% of pupils felt that their opinion was of no consequence whatsoever⁶⁵.

When it comes to access to complaint, children remain dependent upon the will and ability of parents. Schoolchildren have no formal avenues of complaint as to the behaviour of adults, the quality of their work, or

the physical and psychological school environment.

Together with the Equal Opportunities Centre for Disabled Persons (CLH), the Council has previously proposed the introduction of rules as to the reporting of incidents in which teachers have applied coercion in respect of children. In 2008, the Minister of Education put forward a proposal for an executive order concerning measures to promote good order in the Folkeskole. The proposal's §10, subsection 4, imposes upon school directors the duty to record such incidents, though only in cases in which the pupil has been excluded from class, cf. §10, subsection 3.

The Council finds this proposal to be positive, albeit inadequate. All situations involving coercion should be covered by the duty of record. Furthermore, a written procedure should be drawn up as to the duty of record, and parents and local education authorities should be informed of the incidents in each case.

Pupils, parents and not least teachers would benefit from situations involving coercion being subject to in-depth consideration with a view to improving the educational environment. The intention of the Council's proposal is to promote a clear, high-profile response to incidents involving coercion with the aim of preventing further occurrence. In this respect, registered knowledge as to the specifics of each individual incident is of crucial importance.

The National Council for Children therefore recommends that:

- *The government initiate legislative amendments to unambiguously confirm that schoolchildren of all ages are accorded the right of complaint in respect of their treatment by teachers, of environment and indoor climate, and of tests and exams, as well as to establish procedures promoting the availability and thereby the application of such right.*
- *The government develop new strategies and methods with regard to enhancing the right of schoolchildren to be heard in respect of school decision-making processes.*

⁶⁵ "Medbestemmelse i skolen 2007. Børnerådets Børne- og Ungepanel", The National Council for Children, 2007.

VII. Special protective measures

A. Unaccompanied asylum-seeking children (Article 22)

In 2006 and 2007 some 100 unaccompanied asylum-seeking children arrived in Denmark. In 2008, however, the final figure would appear to be almost double that number. The children are housed at a special asylum centre manned by specially trained staff and are assigned a personal representative to safeguard their interests. Figures from Danish Red Cross show, however, that between 60 and 70% of these children disappear within a few weeks, often journeying further toward another country to be reunited with family who can assist them in seeking asylum.

The National Council for Children finds cause for great concern in the fact that so many children in Denmark disappear in this way into an uncertain destiny. The UN Committee on the Rights of the Child recommended in its concluding remarks in 2005, that the Danish state initiate an investigation into the high number of refugee children who disappear from Danish reception centres. As a reply by the Minister of Refugee, Immigration and Integration Affairs to the parliamentary committee on alien and integration policy in June 2008⁶⁶ reveals, such investigation has yet to be initiated. The Minister's reply moreover reveals that the whereabouts of the 605 children who have disappeared since 2002 remain unknown, these children being "departed, assumed departed or still registered as absent".

The Dublin Regulation

Asylum-seeking children are vulnerable and in danger of falling into the hands of traffickers. The Council therefore considers that the number of unaccompanied refugee children embarking on further perilous flight subsequent to their encountering the Danish system should be reduced. One way of doing so would be by incorporating a broader definition of the concept of family member into the Dublin Regulation⁶⁷, which is an agreement between EU member states to ensure that an application for asylum is processed by one member state only. A number of criteria are decisive for which member state is responsible for processing an asylum application. For example, the EU member state in which an unaccompanied minor arrives and makes itself known to authorities processes the child's case, even where the child merely makes use of the country in question as a stopover on its way to another EU member state in which e.g. the child's aunt or uncle is resident. The child may seek asylum to the extent that its parents or guardians are legally resident in that country. The National Council for Children therefore considers that there is a need for amendment of the Dublin Regulation.

The National Council for Children therefore recommends that:

- *The government ensure that the rights of unaccompanied asylum-seeking children are upheld, and that the government for this reason initiate an*

⁶⁶ "Besvarelse af spørgsmål nr. 100 stillet af Folketingets Udvalg for Udlændinge- og Integrationspolitik til ministeren for flygtninge, indvandrere og integration den 25. april 2008", 13 June 2008.

⁶⁷ Council Regulation (EC) No 343/2003 of 18 February 2003.

investigation into the high number of unaccompanied asylum-seeking children who disappear from Danish asylum centres.

- The government initiate, on the basis of the above-mentioned investigation, specific preventive measures to combat the disappearance of unaccompanied asylum-seeking children.
- The government put forward a proposal to the effect that EU member states widen the concept of family member as defined by the Dublin Regulation such that not only parents and guardians are encompassed by the definition.

B. Children of refugees (Article 22)

A study conducted by the National Institute of Public Health and published in the medical journal *Ugeskrift for Læger*⁶⁸ reveals that 35% of 4-16-year-old children in Danish asylum centres show signs of mental ailment. An investigation by SFI - The Danish National Centre for Social Research⁶⁹ shows that these children's major problem consists in the fact that their parents suffer psychological, psychiatric or physically painful ailments during their time at the asylum centre. A study by The Danish Immigration Service⁷⁰ indicates that the need for psychological treatment of children heightens dramatically after only one year spent in asylum centres. The traumas of parents impact on the child's development and may give rise to violence, but also to mental imbalance and depression on the part of parents, which likewise impact on the child's opportunities for experiencing a healthy childhood. In other words, there is no doubt that there is a need for quick and effective measures to aid children and families suffering in this way. In December 2007, the National Council for Children approached the Prime Minister, the Minister of Refugee, Immigration and

Integration Affairs, the Minister of Welfare and party spokespersons in the areas of social affairs and immigration and integration, putting forward a number of recommendations and documentation of conditions for children in Danish asylum centres. Regrettably, the government has chosen to ignore the real problems faced by children and has instead adopted a number of measures making it possible for individual families to live outside asylum centres. These measures will do very little to improve conditions for children of asylum-seeking families in Denmark.

The National Council for Children therefore recommends that:

- The entire asylum phase be restricted to a maximum of two years, it being well-documented that uncertainty experienced by asylum-seeking families with children is detrimental to child development and health.
- Rejected asylum-seeking families with children who have spent more than two years in Denmark as soon as possible be granted residence permits, far too many families with children having been confined to the Danish asylum centres for years with no real opportunity of returning to their home country.
- Children and their families be offered a permanent home or place in a residential centre after a maximum of six months for as long as their case remains under consideration, it being the case that constant relocation destroys children's networks, relationships and general opportunities of attachment.
- All children in the asylum system at the earliest possible time be offered psychological evaluation and treatment to the extent that initial health screening indicates that the child has been subjected to or has witnessed violence, abuse, extreme poverty, hunger, or if the child has lost close family members.
- All children in the Danish asylum system receive

68 "Psyisk helbred blandt asylbørn i Danmark", Signe Smith Nielsen, Marie Nørredam, Karen-Louise Christiansen, Carsten Obel & Allan Krasnik, University of Copenhagen, Department of Public Health, Section of Health Services Research. *Ugeskrift for Læger*, 2007; 169(43):3660.

69 "Livsvilkår for børn med familie på danske asylcentre", Else Christensen & Kathrine Vitus Andersen, The Danish National Centre for Social Research 06:25, October 2006.

70 "Analyse af udgifterne til asylansøgere godkendelseskrævende sundhedsbehandlinger i perioden 2003 til 1. halvår 2006", Udvalget for Udlændinge- og Integrationspolitik. UUI alm. Del – Bilag 209. The Danish Immigration Service, May 2007.

adequate teaching in the native language, it being the case that native language teaching constitutes a crucial prerequisite of bilingual children's learning, and that children of rejected asylum seekers will encounter serious problems in the home country to the extent that such teaching has not been provided in Denmark.

C. Young offenders (Article 37)

Solitary imprisonment

According to Article 37 of the Convention on the Rights of the Child, arrest, detention and imprisonment may only be applied as a measure of last resort and for the shortest appropriate period of time, and children may as a rule not be deprived of liberty unless separated from adult criminals. In December 2007, the National Council for Children received a report from the Ministry of Justice on the arrest and detainment of children since 2005, as well as on the extent of placements of children under 15 years in secure institutions. The ministerial report reveals that four and six youths under the age of 18 were held in solitary imprisonment in 2005 and 2006 respectively. The Council believes that imprisonment of children in solitary confinement should be completely abolished on the grounds of its destructive character.

Remand

Remand constitutes a serious strain on a child, and increasingly so the longer the child is held. In its comments on a draft proposal (2007-730-0582) in January 2008, the National Council for Children informed the Ministry of Justice of its support of the ministerial Criminal Law Committee's assessment that there is a need for measures aiming at reducing the time children under 18 years spend remanded in custody.

According to a study carried out by the directors of Denmark's secure institutions⁷¹, an increasing number of children continue to be held on remand in secure units for longer periods following conviction. In 2006, 169 children waited in total an accumulated period of six years following conviction to be transferred from the secure institution to an open unit. Several children waited more than 100 and 200 days.

The National Council for Children finds that an absolute threshold should be introduced for time held on remand following conviction, it being neither reasonable nor appropriate that transfer of children to open units be held off while children remain in secured environments.

Detention of children under 15 years

By legislative amendment in 2004, Part 75b was inserted into the Danish Administration of Justice Act. The Part deals with rules for the detention by police of suspected persons under the age of 15 years, such detention in principle being restricted to a period of time not exceeding six hours. However, a report by the Director of Public Prosecutions in 2006 reveals that lack of resources in police districts has on several occasions resulted in children under 15 years being detained alone for more than six hours. The National Council for Children finds it alarming and unacceptable that lack of police resources should determine that children under 15 years of age are placed in solitary detention for more than six hours. Detention of a child will always include a risk that the child will suffer trauma and must therefore in the opinion of the Council only occur in the interests of the child's security rather than in the interests of the investigation. Compelling interests of investigation may in the opinion of the Council be taken into account by establishing formal means whereby police may entrust

⁷¹ cf. "Notat om unges fortsatte ophold på sikret afdeling efter idømt ubetinget fængselsstraf" (2008) and "Opgørelse over varetægtsfængslede ophold på sikret afdeling efter dom for perioden 01.01".

children to local authority social welfare departments or child experts.

The National Council for Children therefore recommends that:

- *Solitary confinement of children be wholly abolished.*
- *An absolute threshold be introduced for remand in custody following conviction.*
- *Legislation be amended such that children under 15 years may not be detained alone and may only be detained for a maximum of four hours. Formal means be established whereby police may entrust children to local authority social welfare departments or child experts where this is deemed necessary.*



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