

## **Supplementary reporting from NGOs in Denmark September 2010**

**The Danish Parliament has passed a Children's Reform in June 2010 which comes into effect as from 2011.**

**This legislation relates to the following issues in the Supplementary NGO Report from May 2009/June2010:**

- P. 10, 4.3 The child's right to be involved**
- P. 12, 6.1 The best interest of the child**
- P. 14, 6.4 Supervision of placed children**
- P. 14, 6.5 Placed children's right to family**
- P. 15, 6.8 The children's Telephone**
- P. 26, F. Mental illness, Waiting lists**
- P. 31, 9.13 (new paragraph) Minimum age of criminal responsibility**

**Articles 2, 23 and 28 supplementary report**

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**P. 10, 4.3 The child's right to be involved**

The Children's Reform grants the right to be involved from the age of 12 years in all aspects including complaints about assignment of special support, repatriation from a placement or a foster family or other angles on children's life.

**Additional recommendation from the Reporting Group:**

The Danish Government should require the municipalities to monitor the children's rights in reality i.e. through compulsory training and adequate tools which guarantee the involvement from a child's perspective.

**P. 12, 6.1 The best interest of the child**

The Children's Reform gives priority to foster care when it comes to placing children outside their home. The background for this is a goal to give children places outside home stable and close relations to adults.

**Additional recommendation from the Reporting Group:**

The Danish Government should require the municipalities to always put the best interest of the child first in placement of children. Some children might have other needs than the stable and close relations to adults in a foster home. Therefore the interest of the child should have first priority and be highlighted.

**P. 14, 6.4 Supervision of placed children**

According to the Children's Reform it is now prescribed that supervisory visits are to take place twice a year.

**Revised Recommendation from the Reporting Group:**

The Danish Government should set up quality standards for supervision of the placed children.

**P. 14, 6.5 Placed children's right to family**

The Children's Reform contains new legislation on placed children's right to family. The reform moves the right from the parents to the child. This means that now the child has a right to see its parents.

**Additional recommendation from the Reporting Group:**

The Danish Government should evaluate the change in the legislation and secure that no child is forced to visitation with its parents against will.

**P. 15, 6.8 The children's Telephone**

The Minister for Social Affairs has pledged to cover the extra telephone costs resulting from a toll free number. The pledge is limited to an amount of 200.000 Dkr. per year. Due to the high amount of children contacting the Children's Telephone, this amount is not enough to secure a free, nationwide Children's Telephone open around the clock.

**Additional recommendation from the Reporting Group:**

The Danish Government should support the Children's Telephone with an amount adequate to the extra telephone costs. Furthermore we recommend the government to look at the helpline as a resource for gathering data on children's issues on a national level for policy decisions, and should fund accordingly.

**P. 26, F. Mental illness, Waiting lists**

The problem of waiting lists for evaluation and treatment of children suffering from mental illnesses continues to grow. The amount of treatments has increased by 12 % from 2008 to 2009, but this has not solved the problem, since the amount of referrals has increased by 13 % in the same period. By April 1 2010 1227 children had waited more than 2 months, which is an increase of 17,5 % since April 1 2009.

Source: Danish Regions

**P. 31, 9.13 (new paragraph) Minimum age of criminal responsibility**

The Danish Parliament has adopted a bill which lowers the minimum age of criminal responsibility from 15 to 14 years. The bill entered into force 1 July 2010.

The decision to lower the minimum age of criminal responsibility is contrary to the recommendations made in 2009 by the Commission on Juvenile Delinquency, appointed by the Ministry of Justice.

The Reporting Group stands behind the report from The Danish Institute for Human Rights (pp. 8-10) on this matter. The Commission emphasized the importance of having sufficient options available when dealing with juvenile delinquents and that these options do not constitute formal punishment and thus recommended that the minimum age for criminal responsibility remained at 15 years.

Numerous Danish organizations including those behind the Reporting Group have fought to maintain an age for criminal responsibility at 15 years.

## **New recommendation from the Reporting Group:**

It is strongly recommended that the Danish government be urged to reintroduce a minimum age for criminal responsibility at 15 years.

## **Articles 2, 23 and 28 supplementary report**

In 2009 a state financed survey was released. The survey was carried though by a consultancy bureau on behalf of the Ministry of education. The theme for the survey was the educational achievements of children with disabilities not affecting the abilities to learn. The survey shows achievements of children with disabilities far more modest than the achievements of children on a national basis. The basis for the survey is psychological assessments of 1228 children with disabilities born in 1990. They are from 12 municipalities (of 98), and they are compared to the national average achievements.

The main findings are:

94% of children in Denmark finish primary education.

81% of the children with disabilities finish primary education.

91% of the children in Denmark finish primary school by participating in tests in some subjects.

64% of the children with disabilities finish primary school by participating in tests in some subjects.

83% of the children in Denmark finish primary school by participating in tests in all subjects.

55% of the children with disabilities finish primary school by participating in tests in all subjects.

75% of the children in Denmark proceed in secondary education.

56% of children with disabilities proceed in secondary education.

On the basis of these main findings we find that the right to education is violated for children with disabilities and that the State party has obligations to improve the standards.

The Danish minister of education has underlined that the situation now is different from when the children from the 1990 birth cohort were in school. Binding objectives were introduced in 2002, when the children had already been in school for approximately 6 years. Compulsory testing on specific levels and when finishing school has been introduced in 2006 and by then the 1990 cohort were out of or about to finish school. Knowledge of special pedagogical measures has been practically non-existent in teachers' basic education from

1986 to 2007 when it was reintroduced. On the basis of these initiatives the minister of education reckons that the situation has improved. The minister is willing to follow the 1990 birth cohort further in their educational career to gain knowledge of their achievements in secondary education and on the labour market. From the Disabled Peoples Organisations Denmark we have repeatedly asked the minister if the survey can be reiterated with a new birth cohort. So far the minister has replied noncommittally.

The reasons for wanting a new research are the following: none of the teachers educated on the new education has so far graduated, as the education is four years of duration they will do so in 2011. There are in-service and adult education programmes for teachers, but the extent to which these programmes are used differ widely from municipality to municipality. In our opinion it will take a span of years before enough teachers are properly educated in disability and special needs specific issues. Binding objectives and testing are initiatives of general character and we have no knowledge on if and how they influence the educational achievements of children with disabilities. As the underachievement of children with disabilities is marked we find it unlikely that general measures can improve the quality of education to a level where equalisation between children with and without disabilities have come closer, let alone have been reached.

We find, that the obligation to provide data and statistics stated in the CRC Committees General Comment No. 9 on The rights of children with disabilities, para. 19 is violated. Lack of recollection of data leaves us without knowledge on whether the quality of education, and thereby the outcome for children with disabilities, has actually improved. Recollecting data should lead to more exact knowledge and thereby provide information to design and implement specifically targeted measures to improve the quality of education for children with disabilities. Furthermore, the unwillingness to establish appropriate data collection is a violation of Article 31 in the CRPC.

Para. 20 of General Comment No. 9 needs consideration as well. In-service training and further education on diploma or master level for teachers is a municipality responsibility, but that does not remove the state responsibility to oversee that adequate funds are allocated to the service necessary for carrying the educational obligations towards children with disabilities.

Our conclusion is that the State party neglects its obligation to make sure it provides education for children with disabilities of proper (same) standard as the quality provided for children without disabilities.