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REQUEST FOR INFORMATION ON INDIGENOUS PEOPLES IN DENMARK

22 JANUARY 2016

By e-mail of 3 November 2015, the Secretariat of the Permanent Forum on Indigenous Issues has submitted a questionnaire to the Danish Institute for Human Rights – the National Human Rights Institution of Denmark and Greenland – concerning the institute’s work in the field of indigenous peoples.

The Danish Institute for Human Rights is pleased to contribute with the following information concerning our work in Denmark and Greenland:

SELF-GOVERNMENT IN GREENLAND

Denmark has ratified the ILO 169 Convention concerning Indigenous and Tribal Peoples in Independent Countries as well as undersigned the United Nations Declaration on the Rights of Indigenous Peoples.

By the ratification of the ILO 169 Convention concerning Indigenous and Tribal Peoples in Independent Countries, Denmark declared that the original inhabitants of Greenland (Inuit) are the only indigenous people in Denmark within the framework of the convention.¹

Formerly a colony, Greenland officially became a part of Denmark in 1953 in accordance with an amendment of the Danish constitution. Home-rule was introduced in 1979. With the Self-Government Act from 2009 Greenland’s autonomy was strengthened and the right to self-determination of the Greenlandic People under international law was underlined. By virtue of the Self-Government Act, Greenland and Denmark are seen as equal partners, and Greenland can gradually expand its self-government in a range of areas.² These areas include

¹ See Denmark’s declaration in order no. 97 of 19 October 1997 of the ILO convention no. 169 of 28 June 1989 (*Danmarks erklæring i bekendtgørelse nr. 97 af 9. oktober 1997 af ILO-konvention nr. 169 af 28. juni 1989 vedrørende oprindelige folk og stammefolk i selvstændige stater*).

² See the preamble in act no. 473 of 12 June 2009 on Greenland Self-Government (*Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre*).

e.g. industrial insurance and working environment; healthcare and food products; traffic, including aviation and diving; property- and business law; the justice system, including domestic courts and legal services boarder control, passport and foreigners, criminal law and probation service; radio communication; mineral resources; the maritime environment; intellectual property; meteorology; financial regulation and supervision; inheritance and family law; the rights of persons; regulation on weapons. At present Greenland has overtaken e.g. regulation of hunting; fishing; taxes; expropriation; primary schools and high schools; social security; health; the labour market; electricity, water and heating supplies; natural resources.³

It follows from section 1 in the Self-Government Act that Greenland has the legislative and executive power within the fields of responsibility taken over by Greenland. Accordingly, the Greenlandic parliament Inatsisartut has the legislative power while the self-rule government Naalakkersuisut carries out the executive power.⁴

Within the fields of responsibility not taken over by Greenland, legislative and executive powers are with the Danish parliament and government respectively, e.g. justice and criminal law; family law; aliens law; sea environment; border control.

A few areas remain under the authority of Denmark, e.g. foreign relations and security. By virtue of the Self-Government Act, Greenland can act alone in international affairs concerning fields of law completely taken over by Greenland. However, in matters concerning international organisations of which Denmark is a member, e.g. the United Nations, Greenland is acting by agreement with Denmark or Denmark is including Greenland in the process.⁵

The courts in Greenland have the judicial power in all fields.⁶ There are four district courts with lay judges as well as the Court of Greenland and the High Court of Greenland with judicial judges. The district courts deal with all criminal cases and some civil cases. Legally complicated cases are referred to the court of Greenland as first instance. The judgements and rulings of the district courts as well as of the Court of Greenland may be appealed to the High Court of Greenland. Some judgments and

³ The Prime Minister's Office "Overview of matters that are taken over by Greenland Home Rule (I and II), respectively Government of Greenland (III)" (*Oversigt over sagsområder, der er overtaget af Grønlands hjemmestyre (I og II) henholdsvis Grønlands Selvstyre (III)*) available at: http://stm.dk/multimedia/Oversigt_sagsomr_der_241111.pdf

⁴ Act no. 473 of 12 June 2009 on Greenland Self-Government (Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre) section 1.

⁵ Act no. 473 of 12 June 2009 on Greenland Self-Government (Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre) section 11-16.

⁶ See the preamble in act no. 473 of 12 June 2009 on Greenland Self-Government (Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre).

rulings from the high court may, subject to permission from the Appeals Permission Board, be appealed to the Danish Supreme Court.⁷

THE DANISH INSTITUTE FOR HUMAN RIGHTS COOPERATES WITH THE HUMAN RIGHTS COUNCIL OF GREENLAND

By request of Inatsisartut and Naalakkersuisut the Danish Institute for Human Rights is national human rights institution in Greenland since May 2014.⁸ The institute shall evaluate, promote and monitor the implementation of human rights in Greenland. This work is done in cooperation with the Human Rights Council of Greenland established by Greenlandic law as of 2013, which represents 15 civil society organizations and independent institutions in Greenland, including representatives from academia and the association of attorneys-at-law, as well as three representatives from government, municipalities and the parliamentary ombudsman in Greenland.⁹

Together, the institute and the council published a report in 2014 giving a status for the human rights situation in Greenland in selected areas. See more below on page 7.

QUESTION 1: FORCED RELOCATION OF INDIGENOUS PEOPLES

The Danish Institute for Human Rights has not examined issues on forced relocation of indigenous peoples in Greenland.

The Danish Supreme Court has considered one case regarding the ILO Convention, which was initiated by a Greenlandic tribe, the Thule tribe. In 1951, the United States of America was given permission to build Thule Air Base close to a settlement in northern Greenland, in which connection residents from the settlement were forcibly relocated 150 km away from the settlement. Years later, the Thule tribe which had inhabited the area initiated a court case against the Danish state, claiming its right to inhabit the settlement and use it for e.g. hunting purposes. The Supreme Court upheld the verdict by the Danish Eastern

⁷ Official website for the Greenlandic courts:

<http://www.domstol.dk/om/otherlanguages/english/thedanishjudicialsystem/greenland/Pages/default.aspx> which does not reflect a reduction from 18 to four district courts by Act no. 1388 of 23 December 2012 amending the Administration of Justice Act for Greenland (Change in the number of court districts in Greenland etc.) (*Lov nr. 1388 af 23. december 2012 om ændring af retsplejelov for Grønland (Ændring af retskredsene i Grønland m.v.)*).

⁸ Royal decree no. 393 af 23 April 2014 on the coming into force in Greenland of the act on the Danish Institute for Human Rights (*Anordning nr. 393 af 23. april 2014 om ikrafttræden for Grønland af lov om Institut for Menneskerettigheder – Danmarks Nationale Menneskerettighedsinstitution*).

⁹ Greenlandic act no. 23 of 3 December 2012 on the Human Rights Council of Greenland (*Inatsisartutlov nr. 23 af 3. December 2012 om Grønlands Råd for Menneskerettigheder*).

High Court, which granted the Thule tribe 500,000 DKK (currently app. 73,000 USD) and individual tribe-members 15,000-25,000 DKK (app. 2,180- 3,630 USD) in damages for the relocation more than fifty years earlier.¹⁰

In 2006, the European Court of Human Rights considered the case and ruled that the expropriation and forced relocation during the Thule-case did not violate the rights of the residents in the area. The case was dismissed by the court because the expropriation and forced relocation took place in 1953 before the convention came into force in Denmark.¹¹ Furthermore, the court ruled that the Danish state had found a fair balance between the public interest and the protection of the fundamental human rights at stake.¹²

QUESTION 2: ISSUES RELATED TO CONFLICT, PEACE AND RESOLUTION FOR INDIGENOUS PEOPLES, INCLUDING THE SITUATION OF INDIGENOUS WOMEN

The Danish Institute for Human Rights has not been directly involved in any work specifically related to conflict, peace and resolution for indigenous peoples.

In 2014, Naalakkersuisut established a reconciliation commission. During 2015-2017, the commission shall initiate activities in order to identify cultural and social challenges in society, which give rise to tensions as a result of the colonial heritage.¹³ The Human Rights Council of Greenland was not invited to participate/appoint a member of the commission.

The Prime Minister of Denmark announced that “we have no need for reconciliation” and Denmark does not take part in the commissions’ work.¹⁴

Concerning the situation of women, gender discrimination is prohibited by the Greenlandic act on equality of men and women, which established the Council of Gender Equality in Greenland.¹⁵ Danish gender equality law does not apply to Greenland. The mandate of the Council of Gender Equality in Greenland includes examining, on its own initiative or by request, measures relating to gender equality. The

¹⁰ The Supreme Court’s judgement of 28 November 2003 (U.2004.382H), page 606.

¹¹ European Court of Human Rights, Hingitaq 53 v. Denmark, 18584/04, 12 January 2006, page 18.

¹² European Court of Human Rights, Hingitaq 53 v. Denmark, 18584/04, 12 January 2006, page 20.

¹³ The Reconciliation Commission’s website is <http://saammaatta.gl> (in Greenlandic and Danish only).

¹⁴ Several media, e.g. Denmark’s Broadcasting Corp. (DR), “Danmark holder sig ude af opgør om Grønlands kolonitid”, 13 April 2014.

¹⁵ Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women (*Inatsisartutlov nr. 3 af 29. november 2013 om ligestilling af mænd og kvinder*).

preparatory works of the act underlines that the council is not obligated to consider cases referred from individuals. However, the council can decide to give advice to individuals if this is deemed relevant.¹⁶

In cases on discrimination (all grounds), no national complaints procedure for individuals exists other than taking a case to court or (concerning public authorities) refer the case to the parliamentary ombudsman (Ombudsmanden for Inatsisartut).

In its parallel report to the UN Human Rights Council under the Universal Periodic Review 2016, the Human Rights Council of Greenland recommended that Greenland

- Adopts legislation to prohibit discrimination based on race and ethnic origin, age, religion, sexual orientation and disability within and outside of the labour market.
- Adopts legislation to establish an equal treatment body to ensure access to an effective remedy for individuals who experience discrimination.¹⁷

Inatsisartut has adopted a National Strategy and Action Plan against Violence 2014-2017, which includes 31 activities primarily targeted at combatting domestic violence. This includes legislative amendments, campaigns, psychosocial reinforcement and more. The strategy focuses among other topics on ensuring better counselling opportunities for victims of violence as well as treatment/counselling opportunities for perpetrators in order to prevent future violent behaviour.

In our joint parallel report to the UN CEDAW committee in 2015, the Danish Institute for Human Rights and the Human Rights Council of Greenland noted that a prerequisite for the fulfilment of the strategy is skilled and professional counselling personnel.¹⁸ In Greenland, however, far from all persons employed in these matters have a relevant education. Consequently, the parallel report recommended that Greenland

- Provides information on how the government (Naalakkersuisut) will ensure that all persons employed to give counselling or treatment to victims of violence and their perpetrators have the necessary

¹⁶ Preparatory works to Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women, special remarks to section 27(1), page 34 (*Bemærkninger til forslaget, EM 2013/112, 30. juli 2013, til § 27, stk. 1, s. 34*).

¹⁷ Universal Periodic Review of Denmark, 24th session of the UN Human Rights Council 2016, stakeholder report by the Human Rights Council of Greenland, 22 June 2015, page 2.

¹⁸ See the parallel report in English on the Danish Institute for Human Rights webpage: <http://menneskeret.dk/udgivelser/parallel-report-to-the-un-committee-on-the-elimination-of-discrimination-against-women>

skills to fulfil the goals of the Strategy and Action Plan against Violence 2014-2017.

- Provides information on how developments in relation to the goals of the Strategy and Action Plan against Violence 2014-2017 are monitored and followed-up on during the strategy period.

QUESTION 3: PARTICIPATION IN SESSIONS OF THE PERMANENT FORUM ON INDIGENOUS PEOPLES

The Danish Institute for Human Rights has not participated in any meetings of the Permanent Forum on Indigenous Peoples

Among the members of the Human Rights Council of Greenland is the Inuit Circumpolar Council Greenland (ICC Greenland), which participates in meetings and events and networks globally on indigenous issues, including the sessions of the UNPFII.

QUESTION 4: THE INCREASINGLY IMPORTANT ROLE OF NATIONAL AND REGIONAL HUMAN RIGHTS INSTITUTIONS IN CONTRIBUTING TO THE ACHIEVEMENT OF THE ENDS OF THE DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Question 4 (i): Activities carried out to promote and protect indigenous peoples' rights/regular and ad hoc capacity building programmes on indigenous peoples

As mentioned above, the Danish Institute for Human Rights works in close collaboration with the Human Rights Council of Greenland in order to promote and protect human rights in Greenland. In this context the council shares valuable knowledge of the conditions in Greenland with the institute, and the institute assists the council with knowledge sharing and training on various human rights issues.

Whereas the institute on its own accord has no specific activities under way concerning indigenous issues, the council has set up a working group on Equal treatment, Culture and Language. The working group has decided to focus on indigenous issues in 2016, including the right to natural resources. The institute assists the working group on matters of international human rights law, while the working group identifies challenges and concerns in the Greenlandic context.

One of the main steps in the collaboration between the institute and the council is a report on the status of human rights in Greenland, which is published regularly. It contains recommendations on how adherence to human rights can be improved in selected areas. In 2016,

a new chapter on equal treatment is planned.¹⁹ The cooperation also includes parallel reporting on human rights issues to international bodies, e.g. the UN, where the council assists the institute with knowledge on the conditions in Greenland.

The Danish Institute for Human Rights also collaborates with the National Spokesperson for Children (MIO) and the Court of Greenland and aims to collaborate with central Greenlandic institutions or organisations to develop information or education material on human rights.

Furthermore, the Danish Institute for Human Rights aims to engage in a dialogue with the Danish and Greenlandic authorities. The institute delivers public consultation memos on draft legislation of human rights relevance regarding Greenland circulated for comment and provides human rights advice for authorities upon request. The institute also monitors if the national authorities follow up on the recommendations proposed by the institute in its reports regarding the human rights situation.

Question 4 (ii): Specific policies and programmes on indigenous peoples

Please refer to the reply to question 4 (i). Additionally, the Danish Institute for Human Rights has issued a strategy for its work concerning Greenland for 2015-2016. The strategy contains four aims:

- 1) Close cooperation with the Human Rights Council of Greenland.
- 2) Well-structured monitoring and reporting on the human rights situation in Greenland.
- 3) Precise and applicable advice for authorities on human rights.
- 4) Enhanced information and education for non-governmental parties on human rights.

Question 4 (iii): Regular or ad hoc capacity-building programmes for staff on indigenous peoples' rights

The Danish Institute for Human Rights has no capacity-building programmes or courses for its staff specifically aiming at indigenous issues.

¹⁹ Please find an English summary in the report, which is available for download in Greenlandic and Danish: <http://menneskeret.dk/nyheder/ny-rapport-goer-status-menneskerettighederne-groenland>

Question 4 (iv): Conferences and other meetings on indigenous peoples' issues for 2016 and 2017

The Danish Institute for Human Rights does not plan any conferences or meetings with indigenous issues as main topic for 2016 and 2017.

As a preparation for the Universal Periodic Review of Denmark in 2016, a public hearing organized by the Human Rights Council of Greenland and the Danish Institute for Human Rights were held in Nuuk, Greenland, in 2015 with a focus on rule of law and access to justice.

Question 4 (v): Focal point on indigenous peoples

The Danish Institute for Human Rights does not have a specific focal point on indigenous peoples.

However, Special Adviser Ms. Lise Garkier Hendriksen (e-mail: lgh@humanrights.dk, phone: +45 3269 8866) or Chief Adviser Ms. Mandana Zarrehparvar (mza@humanrights.dk, phone +45 3269 8892) can be contacted for more information on the work in Greenland of the Danish Institute for Human Rights.

The chair person of the Human Rights Council of Greenland, Ms. Inge Olsvig Brandt, can be contacted at inge@nali.gl , phone +299 346679.

Please do not hesitate to contact us should the Secretariat of UNPFII require any further information.

I regret the late reply to your inquiry.

Yours sincerely,

Lise Garkier Hendriksen

SPECIAL ADVISER