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REPLY TO QUESTIONNAIRE: BIODIVERSITY AND HUMAN RIGHTS IN DENMARK

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The Danish Institute for Human Rights has examined the questionnaire sent by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on the 27th of July 2016.

The institute's examination of the questions has shown that no particular legislation, policies and programmes on biodiversity are explicitly incorporating human rights obligations. However, Denmark does have separate legislation, policies and programmes on biodiversity and human rights respectively. Therefore, the institute's response to the questionnaire is focusing on areas in which there to some extent is a link between biodiversity legislation and human rights obligations, i.e. questions 2 and 5.

1. Good practices in the adoption of biodiversity-related legislation, policies and programmes that incorporate human rights obligations

N/A

2. Good practices in the implementation of human rights obligations in biodiversity-related matters

As regards *guaranteeing procedural rights*, a number of rights to complain are ensured in Chapter 12 of the Danish Nature Protection Act ("Naturbeskyttelsesloven"). For example, it prescribes that decisions made by the City Council ("Kommunalbestyrelsen") (Section 78, paragraph 1), the Nature Conservancy Board's ("Fredningsnævnet") (Section 78, paragraph 3) and the Minister for the Environment and Food (Section 78, paragraph 4) may be appealed to the Environmental Board of Appeal ("Natur- og Miljøklagenævnet").

Furthermore, in accordance with Section 91, paragraph 1 of the Danish Environmental Protection Act (“Miljøbeskyttelsesloven”) decisions made by the City Council as well as the Minister for the Environment and Food can be appealed to the Environmental Board of Appeal. The laws providing protection of biodiversity in Denmark are not limited to the two laws mentioned above, but these are in particular important.

Other relevant laws for the protection of biodiversity in Denmark also ensure a right to complain, which includes the Act on Environment for Wetlands and International Nature Conservation Areas (“Miljømålsloven”), Chapter 16; the Stream Act (“Vandløbsloven”), Chapter 16; the Forest Act (“Skovloven”), Chapter 9; the Planning Act (“Planloven”), Chapter 14; and the Act on National Parks (“Lov om nationalparker”), Chapter 6. These laws all provide, to some extent, the opportunity to file complaints concerning decisions made by the respective authorities to the Environmental Board of Appeal.

As regards *guiding business activities in accordance with the UN Guiding Principles on Business and Human Rights*, Section 99(a) of the Danish Financial Statements Act (“Årsregnskabsloven”) prescribes that large enterprises should complement their annual management reports with an account on CSR, which, *inter alia*, should include responses to environmental and climate matters.

3. Challenges and obstacles to the integration and protection of human rights in biodiversity-related matters

N/A

4. How the rights of those who may be particularly vulnerable to the loss of biodiversity, including but not limited to indigenous peoples, are (or are not) provided with heightened protection

N/A

5. Good practices in the protection of environmental human rights defenders working on biodiversity and conservation issues, including any efforts by Governments or others to create a safe and enabling environment for them to freely exercise their rights without fear

Denmark has a longstanding democratic tradition with practices that involve civil society in the drafting of legislation, policies and programmes. In particular, this includes public consultations on bills where, amongst others, experts and civil society organisations have the opportunity to submit their comments.

Furthermore, the freedom of association is enshrined in Section 78, paragraph 1 in the Constitutional Act of Denmark (“Grundloven”), which stipulates, ‘[c]itizens shall, without previous permission, be free to form associations for any lawful purpose’. Hence, there are very few regulations and restrictions on the activities of civil society in Denmark. Thus, civil society organisations can freely exercise their rights without fear of reprisals.

Yours sincerely,

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DEPARTMENT DIRECTOR (ACTING)