



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Information received from Denmark on follow-up to the concluding observations on its eighth periodic report*

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* The present document is being issued without formal editing.



I. Introduction

1. The Danish government is grateful to the Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the constructive dialogue held on 8 and 9 November last year on our eighth periodic report and for the concluding observations following that dialogue.
2. In the concluding observations (CAT/C/DNK/CO/8), which were adopted on 22 November 2023, the Committee requested Denmark to provide follow-up information regarding three specific recommendations (paragraphs 19, 25 and 37) on the eighth periodic report (CAT/C/DNK/8). The Committee also invited Denmark to inform about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations.
3. The Danish government hereby submits its follow-up information.

II. Follow-up information to the Concluding Observations (CAT/C/DNK/CO/8)

Conditions of detention

A. Follow-up information relating to paragraph 19 (a) of the concluding observations

Contribution regarding overcrowding

4. For a number of years, the Danish Prison and Probation Service has been challenged by a high number of inmates. In order to counter the increasing number of inmates, capacity has been expanded significantly since 2015. Even so, the capacity utilization of 2024 (January 1st–October 11th) is at 100.9 percent nationwide. The Danish Prison and Probation Service's multi-year agreement 2022–2025 therefore contains a series of capacity expansions that will overall expand the capacity in Denmark with 326 cells during the agreement period. In addition, agreements have been made to rent 300 cells in Kosovo, expand the planned Detention Center in Slagelse from 200 to 400 cells, and establish a new modern prison with up to 400 cells. It should be noted that the opening of the capacity expansions presupposes an increased number of prison officers.

Contribution regarding staff recruitment

5. Several measures have been introduced to support recruitment and retention of staff, including full salary during training, shortened training period for qualified applicants, higher salaries for uniformed staff etc. Additionally, various measures have been implemented to aid staff retention, such as supervision for all frontline employees, establishment of a corps of psychologists to aid and prevent stress build up and PTSD, increased skill development and further education for all staff etc.

6. There has been a slight increase in the number of staff from 2023 and on-wards.

B. Follow-up information relating to paragraph 19 (b) of the concluding observations

7. The Danish Government is currently looking into the use of remand detention as part of a penal reform.

C. Follow-up information relating to paragraph 19 (c) of the concluding observations

8. The Danish Prison and Probation Service strives to maintain a separation between convicts and remand prisoners. However, overcrowding and lack of prison staff entail that the prison service, in certain situations, may have to deviate from the principle of separating convict prisoners and remand prisoners. Furthermore, a convict may be placed in a remand prison as part of a disciplinary transfer or for individual reasons.

9. Inmates in remand prisons, as well as open and closed prisons, have access to education, work, and leisure activities. However, this access is more limited in remand prisons and closed prisons than in open prisons, due to e.g. remand restrictions on association with other inmates or security matters. Access may also be affected by staffing conditions.

D. Follow-up information relating to paragraph 19 (d) of the concluding observations

10. In August 2024, a practitioner committee consisting of staff and associations representing lawyers and prisoner relatives concluded an analysis and evaluation of the area. Implementation of a digital booking system for visitors and improved written information to inmates and visitors has begun. The prison service will examine the possibility of implementing the remaining recommendations and initiatives in 2025.

E. Follow-up information relating to paragraph 19 (e) of the concluding observations

11. A fixed procedure is followed when a prison or remand centre is receiving new inmates. Within the first 7 working days after receiving an inmate in a remand centre and within the first 10 working days after receiving an inmate in a prison, the inmate must be briefed and given written information on being remanded in custody or serving a sentence. The inmate is informed about the most important rules that apply to those arrested and remanded in custody or to those serving a prison sentence. This includes information on their rights and responsibilities, for example the right to receive visitors, occupation through work, education or other approved activity. The written information is translated into sixteen languages and is currently being updated to include the most recent information.

F. Follow-up information relating to paragraph 19 (f) of the concluding observations

12. According to Danish law, prison staff is authorised to do strip-searches on detainees without a court order, when it is considered necessary to ensure prison security or to prevent disorder or crime. It is practice in high-risk institutions (closed prisons and remand centres) to conduct a strip-search in connection with visits and when the inmate is transported outside the institution by the staff. According to section 60 of the Sentence Enforcement Act, strip-searches shall be proportional, carried out gently and must only be attended by prison officers of the same gender as the detained.

13. The Prison and Probation Service plans to introduce national written guidelines on the procedure of strip-searches in 2025.

G. Follow-up information relating to paragraph 19 (g) of the concluding observations

14. During the admission procedure, remand prisoners, convicted prisoners and administratively detained foreigners undergo a preliminary psychiatric screening by prison staff and an additional medical screening by a nurse. The purpose of the medical screening

is to uncover physical as well as psychiatric problems and if needed refer the inmate to relevant healthcare services.

15. Local health care units in prisons, remand prisons and deportations centres handle health-related tasks for inmates/detainees similar to a general practitioner. The prison service has psychiatrists employed or affiliated as consultants in all prisons, deportation centres and remand prisons, assessing and treating inmates with psychiatric problems. If a prisoner/detainee needs treatment that cannot be provided by the local health care unit, the person will be referred to a hospital or other applicable health care institution outside of prison for treatment.

Migration detention

H. Follow-up information relating to paragraph 25 of the concluding observations

16. In Denmark, detention for the purposes of return is only applied in accordance with specific provisions in the Danish Return Act.

17. According to these provisions, detention can only be applied for this purpose if it is necessary to secure the possibility of return – e.g. due to the risk of absconding – and if less coercive measures are deemed insufficient to secure this.

18. The decision to detain and the duration of the detention is subject to review by a court of justice.

19. If the detainee is not released within 72 hours, the decision to detain shall be reviewed by a court of justice. The court will assign the detainee a lawyer and rule on the lawfulness of the detention.

20. If the detention is upheld, the court must set a time limit for the continued detention. The time limit can subsequently be extended by the court for up to four weeks at a time.

21. When assessing the duration of the detention, the court considers the principle of proportionality and Denmark's international obligations. The court shall take into account whether the return proceedings are progressing and whether there are prospects of return within a reasonable period of time.

22. Minors will not be detained for the purpose of return. In cases involving families with minors, one of the adults, typically the father, may – if deemed necessary – be detained to secure the purpose of return.

23. The Prison and Probation Service is continuously maintaining and enhancing the living conditions at Ellebæk Detention Centre:

- The centre is in the process of establishing accommodation in a separate ward for foreign nationals who are detained administratively, separating them from foreign nationals who are remanded in custody for e.g. committing an offence that may lead to expulsion;
- The prison service has established a working group with the purpose of providing solutions for separate accommodation within the detention centre for families and couples;
- The centre is in the process of reducing the number of detainees accommodated per room. The action will result in a reduction to maximum two detainees per room;
- As of December 2024, the centre will introduce new outdoor facilities, which will provide detainees with unrestricted access to fresh air during the daytime. The outdoor facilities will be increased in comparison to current facilities. The facilities will be fenced and some of the outdoor area will be covered with a roof for weather protection;

- The Prison and Probation Service recognizes the importance for detainees in Ellebæk Detention Centre to have contact with the outside world and that restrictions on this right should not go beyond what is necessary to ensure the presence of the detainees as well as the security of the detainees and the staff. Detained migrants are free to call both Danish and foreign telephone numbers from the installed telephones in the occupancy sections by use of calling cards. The detainees can buy calling cards from the officer in charge or the centre's grocery store once a week. The prison service has established a working group, which as part of its tasks shall consider solutions for internet access in the centre to support the detainees' possibility of contact with the outside world;
- In 2023, the system of disciplinary sanctions, including the rules on the application of solitary confinement as a disciplinary measure, was revised in order to ensure the reduction of the maximum possible duration as well as the effectiveness and proportionality of sanctions. The revised disciplinary system imposes fines or restricts privileges, such as receiving visits, phone access and the access to send letters (a limitation that does not apply for close relatives to the detainees). This has led to a reduction in the use of solitary confinements and has proven to be a lesser intervening measure for the detainees compared to that of solitary confinement.

Psychiatric institutions

I. Follow-up information relating to paragraph 37 of the concluding observations

24. As a general rule, all kinds of coercion in psychiatric wards – here amongst physical or chemical restraints – may only be used after attempts to seek the patient's acceptance of treatment have failed. The use of coercion must be proportional and must be used as gently as possible, so unnecessary discomfort is avoided, cf. the Mental Health Act, section 4.

25. Furthermore, the Danish Government has a strong focus on improving the psychiatric and mental health field. In September 2022 the Government and a majority of the political parties concluded an agreement of a 10-year plan to improve the psychiatric and mental health field.

26. The 10-year plan is an agreement based on a report from the Danish Health Authority and the National Board of Social Service which outlines the primary challenges and improvement points as well as potential solutions regarding mental illness and mental health in Denmark. The agreement is a long-term plan focusing on the direction for mental health treatment in Denmark as well as prevention and a stronger coherence between general practice, psychiatric hospital services and the social services. In connection with the preparation of the report, the Danish Health Authority and the National Board of Social Service obtained information on an ongoing basis from among others professional associations and patient organizations. The Government will in the beginning of 2025 begin the negotiation of the last and final step of the 10-year plan towards 2030 with the purpose of ensuring the necessary capacity and quality of care as well as the reduction in coercion in the psychiatric field.

27. The Government has prioritized over 3 billion Danish kroner (EUR 400 million) for the fully funded 10-year plan.

28. Regarding the reduction of coercion, the Government has been working towards reducing coercion for a number of years. Thus, in 2014 it decided upon an ambitious goal to reduce belt restraints by 50% in 2020. This goal was unfortunately not met. As a part of actively seeking to reduce compulsory restraints, the State has set a new and ambitious goal to reduce coercive measures by 30% by 2030 as a part of the 10-year plan. This goal includes all kinds of coercive measures, including belts, restraints, forced medication etc. A new model for closely monitoring the use of different types of coercive measures will be developed and a national task force meeting twice a year will follow and discuss the development in the psychiatric field, especially the use of coercion.

29. Another focus of the task force is awareness of any potential differences in the five regions, which are responsible for treatment psychiatry, in regards to the use of coercion, and analyze the reasons for these differences between regions. Hence, one of the main purposes of the task force is learning and sharing good practices among the regions.

30. The Danish Government would also like to emphasize that the Danish Health Authority publishes guidelines regarding the use of coercion. The current guidelines were last updated in 2023.

31. In regards to ensuring that children under the age of 15 are able to avail themselves of the same legal safeguards as adults and juveniles aged 15 or older, the Government has amended the Mental Health Act regarding *inter alia* minor patients under 15, which came into force on 1 June 2024. With this amendment, all patients regardless of age will have the same legal rights, i.e., a right to a patient adviser and a right to complain to the Psychiatric Complaints Board.

32. Finally, regarding the Committee's concern regarding the high percentage of overturned decisions on the initiation or duration of the use of belt restraints by the Psychiatric Patient Complaints Board, the Government agrees that the percentage of overturned decisions is high, while welcoming that the Psychiatric Patient Complaints Board contributes to secure psychiatric patient's legal rights. The State will investigate the reasons and if necessary, make adjustments, elaborate relevant guidelines or look into other initiatives.

Plans for implementing recommendations within the coming reporting period

J. Follow-up information relating to paragraph 13 of the concluding observations

33. As mentioned in relation to paragraph 19 (c) of the concluding observations, a practitioner committee on visitation has given recommendations in order to ensure better access for inmates to communicate with their lawyer. This includes exploring the possibilities of video visits for lawyers and a digital booking system for lawyer visits.

34. In 2024 and 2025 the Danish Prison and Probation Service will examine the possibility of improving the area further.

K. Follow-up information relating to paragraph 17 of the concluding observations

35. In April 2022, the treaty between Kosovo and Denmark was signed, and in May 2024 the treaty was approved by the Kosovar Parliament. Subsequently, the treaty was ratified in June 2024, and it is expected that the prison facility can be put into use 21–26 months from the date of ratification of the treaty.

36. Denmark's international obligations, including obligations under the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, were taken into careful consideration in the course of the negotiations of the treaty.

37. It is a precondition in the treaty that the execution of sentences at the prison facility shall take place in accordance with Denmark's international obligations, and the prison facility will not be put into use before the conditions essentially correspond to the conditions in Danish prisons and the government is satisfied that the sentences can and will be served in accordance with Denmark's international obligations. It further follows from the treaty that Danish rules, with minor changes for practical reasons, and Denmark's international legal obligations will apply inside the prison. This means that prisoners will have the same rights as in Denmark, that the prison conditions must correspond to the conditions of Danish prisons and that the Kosovar prison staff must be trained in Danish rules and practices. Furthermore,

the prison will be under management of a Danish Governor and will be under the supervision of the Danish Parliamentary Ombudsman and other Danish and international authorities.

38. All incarcerated persons will have access to healthcare in accordance with Denmark's international obligations. According to the treaty, a healthcare clinic will be established inside the prison with health care personnel with Danish authorizations and subject to Danish supervision. If treatment is required outside the healthcare clinic, the incarcerated person will be transported to Denmark, except for emergency treatment which will be provided locally in Kosovo. The prison will not be put into use before it is ensured that the treatment options in Kosovo can be provided in accordance with Denmark's international obligations.

39. All incarcerated persons will have the right to receive visits in the same way as incarcerated persons in Denmark.

40. All incarcerated persons will have access to effective channels of complaint. According to the treaty, the rules and regulations of the sending state (Denmark) shall be exclusively applicable to the execution of Danish sentences in the prison, including the rights and duties of the prisoners, which may take the form of complaints or legal actions of prisoners concerning the execution of Danish sentences. Complaints and legal matters concerning the execution of Danish sentences shall be handled by the Danish authorities, including Danish courts.

L. Follow-up information relating to paragraph 21 of the concluding observations

41. Following the new disciplinary penalty system, described in the follow-up related to paragraph 25 of the concluding observations, solitary confinement as a disciplinary measure can only in exceptional cases be imposed for a duration of more than 14 days. This may include cases of repeated violations of disciplinary rules or where a longer period of solitary confinement is found necessary to manage particularly challenging and outwardly reacting inmates.

42. For the development in the use of solitary confinement as a disciplinary measure reference is made to Annex. The new disciplinary penalty system entered into force in September 2023, and has in general resulted in a decrease in the number of solitary confinements as a disciplinary measure and in particular a substantial decrease in the number of long-term solitary confinements for more than 14 days.

43. Voluntary exclusion from association can be arranged for different reasons, for instance to protect the inmate, or if the inmate needs time on their own to focus on an issue or to adapt to their current situation. The inmate can – at any time – end the voluntary exclusion. It follows from written instructions that it must be continuously assessed in cooperation with the inmate if the voluntary exclusion can be terminated. Furthermore, the prison staff will continuously assess whether the inmate should be transferred to another prison where association is possible.

M. Follow-up information relating to paragraph 27 of the concluding observations

44. The Danish Government has noted the concern of the Committee as regards the fact that in some cases children in social care are placed in secure residential facilities with children serving custodial sentences, despite not having committed an offence.

45. The Danish Government emphasizes that in cases where the municipality decides to place a child or young person in out-of-home care, e.g. at a residential institution, the municipality has to consider what facility is best suited to meet the needs of the child or young person.

46. The Danish Government further emphasizes that Danish Law provides strict conditions that has to be met in order to place a child or young person in a secure residential institution. Danish law also provides strict temporary limitations on the amount of time a child or young person can be placed in a secure residential institution.

Annex

Table 1
Unconditional penalty cells, adults, 2023

<i>Duration of placement in penalty cell and month</i>													Total
	1	2	3	4	5	6	7	8	9	10	11	12	
1–14 days	268	246	271	217	272	226	243	203	156	133	144	145	2.524
15 days or more	62	53	63	40	40	54	49	36	8		11*	8	424
Total	330	299	334	257	312	280	292	239	164		288*	153	2.948

* For reasons of discretion the months of October and November have been combined.

Note: Data was extracted on 21 October 2024.

Table 2
Unconditional penalty cells, adults, Jan.–Sep. 2024

<i>Duration of placement in penalty cell and month</i>										
	1	2	3	4	5	6	7	8	9*	Total
1–14 days	189	159	192	214	204	224	203	159	197	1.741
15 days or more	10	6	11	9	5	11	8	7	7	74
Total	199	165	203	223	209	235	211	166	204	1.815

* Up to and including 30 September 2024. Data regarding 2024 are preliminary.

Note: Data was extracted on 21 October 2024.

Table 3
Unconditional penalty cells, juveniles

<i>Duration of placement in penalty cell and year</i>		
	2023	2024*
1–7 days	15	20
Total	15	20

* Up to and including 30 September 2024. Data regarding 2024 are preliminary.

Note: Data was extracted on 21 October 2024.