



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

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**Committee against Torture**

**Concluding observations on the combined sixth and seventh  
periodic reports of Denmark**

**Addendum**

**Information received from Denmark on follow-up to the  
concluding observations\***

[Date received: 9 December 2016]

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\* The present document is being issued without formal editing.

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## **Denmark's follow information on Concluding Observations received 9 December 2016**

1. The Committee against Torture, in its Concluding Observations on Denmark published on 9 December 2015 (CAT/C/DNK/CO/6-7), requested in paragraph 50 that Denmark "provide, by 9 December 2016, follow-up information in response to the Committee's recommendations relating to: the incorporation of the Convention in domestic law; the deportation of vulnerable individuals; the screening of and assistance to asylum-seekers victims of torture; and separation of convicts and remand prisoners, as contained in paragraphs 13, 21, 23 and 37, respectively, of the present document". Denmark's follow-up information on the issues between the period December 2015 and December 2016 is provided below.

### **Incorporation of the Convention in domestic law (recommendation no. 13)**

2. On 21 December 2012, the former Danish Government appointed a committee to assess, *inter alia*, the appropriateness and necessity of incorporating into Danish law a number of human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

3. On 14 August 2014, the committee delivered its recommendations. The former Government decided not to take further steps with regard to incorporation of further human rights instruments, including CAT.

4. The aforementioned government's predecessor reached the same conclusion in 2001 on the basis of a similar committee analysis.

5. As emphasized in the committee's report, incorporation entails a risk of a shift in powers conferred upon the Parliament and the Government to the courts. To the former Government, it was important to maintain the elected representatives' responsibility for the compliance with Denmark's international obligations.

6. Regarding the legal status of CAT in Danish law, the government would like to emphasize that international conventions can be invoked before and applied by the courts and other law-applying authorities regardless of whether the convention is incorporated into Danish law. This means that also the unincorporated conventions are relevant sources of law in Danish law. Accordingly, the courts and other authorities must to the extent possible apply the Danish law in such a manner that a breach of Denmark's international obligations is avoided.

7. Hence, consecutive Danish governments have concluded that the Danish system is sufficient to ensure that the CAT can be invoked before and applied by the Danish court and other authorities.

### **Deportation of vulnerable individuals (recommendation no. 21)**

8. The Danish Government emphasizes that Denmark does not have the legal competence to monitor the situation of rejected asylum seekers after they are sent back to their home countries.

9. It should be noted that a rejected asylum seeker will only be sent back to his or her home country after the Danish asylum authorities have thoroughly assessed the application for asylum and in doing so has assessed that the person does not need protection. This assessment is made by the Danish Immigration Service and the Refugee Appeals Board.

10. Furthermore, the Danish asylum authorities monitor the situation in the asylum-producing countries generally and the asylum authorities use extensive background knowledge in their assessment of the application for asylum. Included in the background knowledge are reports from fact finding missions conducted by the Danish Immigration Service, reports from human rights Non-Governmental Organizations and UN organs.

**Screening of and assistance to asylum-seekers victims of torture (recommendation no. 23 a and b)**

**Recommendation 23 a**

11. All asylum seekers are offered a medical screening when they arrive in Denmark. Furthermore, the reception centre staff and the case workers in the Danish Immigration Service pay attention to possible signs of torture shown by asylum seekers.

12. It is the experience of the Immigrations Service that asylum seekers who have been subjected to torture often explain about it as part of their asylum claim. Employees at the Immigration Service receive training in interview techniques, including techniques to interview vulnerable persons, including asylum seekers who have been subjected to torture.

13. At the reception centres, asylum seekers with special needs, e.g. victims of torture, are identified for the purpose of initiating necessary measures. Applicants with special needs can be moved to a care centre for particularly vulnerable persons.

14. Throughout the entire asylum procedure, asylum seekers can contact the medical staff, if any need arises.

15. In cases where torture is invoked as one of the grounds for asylum, the immigration authorities can initiate a medical examination of the asylum seeker to identify whether the asylum seeker is a victim of torture before the decision in the asylum case is being made.

16. If a medical examination is of significance to the asylum decision, a medical examination to assess the claim will be conducted. Whether or not to make a medical examination of an asylum seeker is based on a specific and individual assessment of the circumstances of the asylum case. The assessment includes the specific details of the case combined with the general background information on the country of origin of the asylum seeker, the estimated possible outcome of the examination and the credibility of the asylum seekers explanation.

17. The physical examination for signs of torture is performed by the Department of Forensic Medicine. It comprises a detailed examination of the asylum seeker that will make it possible to assess whether any objective findings reflects physical torture. In addition, an examination is often made at the Department of Forensic Psychiatry, which subsequently issues a medical certificate for psychiatric assessment. Moreover, other examinations may be made by other medical specialists. The Department of Forensic Medicine makes a conclusion based on all the examinations and the conclusion is included in the basis for the decision of the immigration authorities.

18. Thus, the immigration authorities are already identifying victims of torture in the asylum procedure and a torture examination can be initiated through the entire asylum procedure. On this basis, it is the opinion of the Danish Government that the procedures already in place to identify and assist victims of torture are sufficient.

**Recommendation 23 b**

19. During the process of seeking asylum, an asylum seeker will normally be offered accommodation at one of several accommodation centres in Denmark. In certain instances, an applicant can reside outside the centres.

20. The asylum seekers are not deprived of their liberty during the application process. Furthermore, adult asylum seekers are entitled to the necessary health care. In practice, this also includes the necessary social measures. Children are generally given the same right to health care as Danish children.
21. Administrative detention in accordance with section 36 of the Danish Aliens Act generally provides the opportunity to detain rejected asylum seekers to ensure the possibility of administrative deportation, transfer or return of the rejected asylum seeker.
22. The Danish police decide whether to administratively detain a rejected asylum seeker but the detention must be tried by the courts within three days from the start of the detention. The judge will then decide if the detention is to be upheld.
23. If an asylum seeker is in such a condition that it is estimated that detention is not possible — e.g. because the person is a victim of torture — the police will impose less restrictive measures.
24. It should be noted that the fact that an alien has been subjected to torture generally does not exclude the use of detention. The police will, however, take into consideration personal information, including health information, concerning the alien before deciding on detention or less restrictive measures.
25. The police can choose to release a detainee due to the detainee's vulnerability, e.g. health problems.
26. The lawfulness of the detention is tried in regular intervals by the court. Detention can generally not last longer than 6 months. However, under special circumstances the court can decide to prolong the detention for further 12 months (in accordance with relevant European Union standards).
27. During the first 72 hours the detainee can file a complaint about the decision of detention to the Ministry of Immigration and Integration. The detainee can also file a complaint about conditions during the detention to the Danish Prison and Probation Service.
28. Furthermore, the conditions during administrative detention are subject to control by the Danish Parliamentary Ombudsman (the National Prevention Mechanism in accordance with the Optional Protocol to the CAT) who carries out inspections in the institutions.

#### **Separation of convicts and remand prisoners (recommendation no. 37)**

29. According to Danish Law, convicted prisoners are, as a main rule, placed in state prisons, whereas pre-trial detainees are placed in remand prisons or in separate units in state prisons.
30. In certain circumstances, however, a convict may be placed in a remand prison together with remand prisoners.
31. Thus, a convict may serve a short-term sentence in a remand prison if it is necessary in view of the overall utilisation of the places in the institutions of the Prison and Probation Service. Otherwise, there would be a risk of overcrowding in certain prisons. Furthermore, a convict may be placed in a remand prison for individual reasons, for instance in order to protect the convict from assault, to prevent escape, for medical reasons or for compelling personal reasons.
32. In the period from 1 January 2016 to 22 November 2016 an average of 288 convicts were placed in remand prisons out of a total average population of 1515 persons placed in remand prisons. The 288 convicts include a significant number of persons who were detained prior to the trial and who were only staying in the remand prison for a short period of time while awaiting transfer to a state prison.

33. The (average of) 288 convicts also include certain groups of prisoners — e.g. members of organized criminal groups — who are placed in remand prisons due to a risk of assaults on others. Such groups are placed in separate units which are completely cut off from the rest of the prison. These units include convicts as well as remand prisoners. The main reason for placing convicts and remand prisoners in this type of special units is that the groups in question pose a threat to others, if placed in regular prison units. At the same time, the wish to protect remand prisoners from potential negative influence does not carry quite the same weight in these cases, due to the fact that the prisoners are placed together with persons whom they would also associate with outside the prison system.

34. As regards the risk of subjecting remand prisoners to negative influence from convicted prisoners, it should be noted that a convict placed in a remand prison may take part in joint activities with pre-trial detainees, but that such joint activities take place under supervision of the staff or in the presence of staff members, if this is deemed necessary for reasons of order or security.

35. Furthermore, it is generally observed that each prisoner has a private cell, where he or she is imprisoned at night.

36. It should also be noted that the living conditions in both state prisons and remand prisons are subject to control by the Danish Parliamentary Ombudsman (the National Prevention Mechanism in accordance with the Optional Protocol to the CAT) who carries out inspections in the institutions.

37. Against this background, it is the view of the Danish Government that there are good reasons for allowing the placement of convicts together with remand prisoners in special circumstances, and that this practice does not constitute a violation of the CAT.

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