



**International Covenant on
Civil and Political Rights**

Distr.: General
11 August 2017

English only

Human Rights Committee

**Concluding observations on the sixth periodic report of
Denmark**

Addendum

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

[Date received: 14 July 2017]

* The present document is being issued without formal editing.

GE.17-13868(E)



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Recommendation 20

A. Efforts to effectively combat domestic violence, including application of guidelines

1. Denmark continues efforts to effectively combat domestic violence by ensuring effective prosecutions and sanctions of perpetrators in all police districts.
2. The police initiate an investigation upon receiving a complaint or ex officio when there is a reasonable presumption that a criminal offence has been committed. Criminal proceedings are initiated ex officio in every case by the Prosecution Service where the police investigation has resulted in evidence of a crime.
3. The Director of Public Prosecution (DPP) has issued binding guidelines for the police and the prosecutors on handling of criminal cases, including cases on domestic violence (guidelines on Interrelational Violent Crimes updated on 1 July 2016), and a knowledge package on violence against children. The guidelines are regularly updated, and relevant case law is available.
4. According to the Administration of Justice Act (AJA) and as further described in the guidelines, the prosecutors have to inform and guide the victim of a violent crime about the case and the expected progress of the case, which should be given regularly and include information on charges, the court case, witness rights and duties, help throughout the process and legal counsel. The prosecution service informs the victim about the perpetrator's indictment and the date of the court hearing and of a request for appeal or retrial.
5. The guidelines of Interrelational Violent Crimes provide guidance for prosecutors on how to handle cases of domestic violence. In cases where the victim has submitted a complaint to the police, the investigation or criminal proceedings will not be discontinued automatically, if the victim withdraws the complaint as cases of e.g. violence are crimes that are pursued by the state. It is of particular importance that the police documents the victim's injuries and ensures evidence so legal proceedings can continue, if the victim withdraws his or her statement/complaint. The same guidelines contain instructions to the prosecutors on how to react in court if the witness uses his/her right not to testify.
6. The DPP has also developed binding guidelines on how the police and prosecution service must handle cases concerning restraining orders, exclusion- and expulsion orders.
7. On the DPP-homepage information for victims is available in seven languages.

B. Training of professionals

8. It is mandatory for all new legal staff in the prosecution service to go through basic training in the handling of criminal cases, including domestic violence. Prosecutors are instructed in the handling of vulnerable persons. The basic training is concluded with a mandatory exam, where the prosecutors must display knowledge of the needs and rights of the victims. Furthermore, the DPP offers a course related to crimes involving children.
9. The Danish National Police (DNP) is responsible for the overall police efforts in relation to preventing and combating violence in intimate relationships, including violence against women. In 2012, the DNP established the National Centre of Crime Prevention (NCCP) setting the direction for the preventative efforts by the police as well as supports and coordinates these prevention efforts. It also follows the development of prevention of violence in intimate relationships — both nationally and internationally — with a view to implementing new knowledge and initiatives that can optimize the prevention and investigation of violence in intimate relationships.
10. The NCCP has e.g. implemented the evidence-based risk assessment tools “Spousal Assault Risk Assessment”, “Stalking Assessment and Management” and “Assessment of Risk for Honour Based Violence”, which improves the police's ability to assess the need

for protective measures towards a vulnerable person or measures against a possible perpetrator.

11. The NCCP provides a two-day certification training course on risk assessment tools, where experts are invited in order to ensure that the participants acquire the latest knowledge. Since 2015, a total of 116 investigators and case workers have been certified in the abovementioned risk assessment tools.

12. Furthermore, the Danish Police Academy teaches all police students how to prevent and detect violence, including domestic violence.

13. The specific efforts in concrete cases of violence in intimate relationships are anchored in the police districts, each committed to collaborate with local and relevant partners engaged in the field of domestic violence.

14. Denmark has a national action plan against violence in intimate relations (2014-2017), under which a number of projects are implemented to educate professionals. The section of the website of the National Board of Social Services targeting professionals was updated in 2017 with the newest research on different types of domestic violence. A section on bi-directional violence between intimate partners will be added in 2018.

15. A pilot project in a Danish municipality is currently developing screening tools and models of cooperation between professionals in contact with victims of stalking to provide better support for victims of stalking.

16. A new national unit to fight violence in the family and in intimate relations starts operating 1 October 2017 and is funded by the government, managed by five NGO's and is going to run the national hotline, provide legal counselling and collect data.

C. Greenland

17. Naalakkersuisut (The Government of Greenland) acknowledges the importance of combating domestic violence, in particular violence against women.

18. Naalakkersuisut's Strategy and Action Plan against Violence 2014-2017 includes specific initiatives aimed at strengthening the efforts with a specific focus on violence against women. The initiatives include legislative amendments, campaigns, psychosocial reinforcement and treatment offer for perpetrators. The objective is to support the victims, break the circle of violence, as well as strengthen the skills of the professionals and advance knowledge and information on violence.

19. The Danish Act on Restraining, Exclusion and Expulsion orders came into force in Greenland April 1st, 2017 with adjustments complementing Greenlandic conditions.

20. The Act enables the Chief Police Constable in Greenland to issue restraining orders, grant the power to prohibit a person from staying in a limited area and to decide, whether a person at the age of 18 years/ older shall be expelled from home. At an early stage, the Act makes it possible to intervene against domestic violence without the victim and their children are forced to vacate their home, while strengthening the social authorities' opportunities to intervene.

21. Naalakkersuisut will follow up on the implementation of the Act and consider whether there is a need for further action.

D. Faroe Islands

22. Please refer to the State Party's answer regarding reports to the police, criminal investigations and prosecutions.

23. Authorities in the Faroe Islands make continuous efforts to combat domestic violence effectively. The district police in the Faroe Islands and the Faroese Ministry of Social Affairs have initiated a co-operation aimed at preventing domestic violence targeting both the victim and the perpetrator. Information pamphlets addressing both victims and

perpetrators has been published on where to seek protection, help and counselling. The police hands out the pamphlets and encourage the parties to seek necessary/relevant help.

24. The Faroese Government has taken various measures to improve the protection of victims of violence and impose sanctions on the perpetrator. In March 2017, new legislation came into force including provisions aimed at protecting persons from violence, assault and harassment (also stalking). The legislation authorizes expulsion of abusive persons for a period of time from the home shared with the victim and also includes a clear set of rules regarding restraining orders.

25. In March 2017, an amendment to the Criminal Code came into force with specific focus on sexual offences. Rape, for example, has been extended to include coercion and abuse of a person in a helpless state/situation. The provision also includes offences committed within a marriage. The statute of limitation has been extended for certain sexual offences, and adoption and biological kinship now have equal basis in cases of incest.

Recommendation 24

A. “abolishing solitary confinement of minors”

26. The Danish AJA in general sets out strict limits for the use of solitary confinement and contains a special principle of proportionality that must be fulfilled when using solitary confinement: it can only be applied if the purpose cannot be achieved by applying less intensive measures, if the application is proportionate to the specific circumstances of the case and if the case is being processed without undue delay. This special principle supplements the normal principle of proportionality applying to pre-trial detention.

27. In exceptional circumstances, the nature of the crime and the risk of tampering with the investigation may necessitate remand of a person under the age of 18 in solitary confinement. Therefore, remand in solitary confinement of persons under the age of 18 is not prohibited.

28. In addition to the general requirements, exceptional circumstances must warrant the solitary confinement of persons under the age of 18. Furthermore, a person under the age of 18 may not be held in solitary confinement for continued periods longer than 4 weeks, unless the person is suspected of the most serious forms of crime. Extending solitary confinement beyond 6 months is only to be used in cases of most serious.

29. Only one person under the age of 18 was held in solitary confinement during pre-trial detention in the period from 2009 until 2015. In 2016, two persons under the age of 18 were held in solitary confinement during pre-trial detention. Both cases concerned serious charges (terrorism and severe violation of weapons legislation).

30. The District Courts decides by request from the prosecution service whether a person charged with a criminal offence shall be held in pretrial detention, including solitary confinement. Such decisions can be appealed to the High Court. Appeal to the Supreme Court is only possible if a case in principle or other reasons justifies it.

31. Prisoners may also be placed in solitary confinement based on administrative decisions, either for punitive reasons (disciplinary cell) or preventive reasons (exclusion from association). In practice, only a limited number of convicted minors are placed in solitary confinement based on administrative decisions (13 in 2016), seeing that the vast majority are not detained in a prison, but are met with a suspended sentence/community service, or they are granted permission to serve their sentence at home under electronic surveillance or in an institution outside the prison system.

32. Moreover, when a minor actually serves a sentence in a prison, the staff will pay great attention to the minor’s age when making a decision regarding solitary confinement. When the measure is considered absolutely necessary, it will be applied for a short period of time, and the staff will pay particular attention to the minor and will attempt to alleviate any negative effects of the solitary confinement.

33. Also note that solitary confinement generally takes place in normally equipped cells with access to books, television, occupational activities, etc.

34. In January 2017, a working group under the Danish Prison and Probation Service presented a report concerning the possibilities of reducing the use of solitary confinement for minors as a punitive measure (disciplinary cell). The working group concluded that situations exist where no alternative measure is deemed suitable. However, the working group has recommended certain amendments to the law, so that minors cannot be placed in a disciplinary cell for more than three days, or in exceptional circumstances 7 days, and so that they may be permitted to associate with others during work or study, i.e. for several hours per day (in which case the placement of minors in disciplinary cells would not amount to solitary confinement, as defined by the Mandela Rules). A number of alterations to the administrative rules was also recommended, primarily in order to emphasize that minors should only be placed in a disciplinary cell if deemed absolutely necessary.

35. The MoJ is currently considering the possibilities of amending the law in accordance with the recommendations from the working group.

B. “reducing the total length of permissible solitary confinement for remand detainees”

36. A period of solitary confinement must be as short as possible. According to the AJA, no one can be held in solitary confinement during pre-trial detention for more than two weeks, if the charges cannot lead to imprisonment for more than four years; four weeks for up to six years; eight weeks for more than six years. It is possible to extend beyond eight weeks if crucial consideration regarding the criminal investigation requires that the solitary confinement is upheld, and if the criminal offence is expected to lead to imprisonment for at least two years.

37. If such exceptional circumstances apply, as a general rule, no one can be held in solitary confinement during pre-trial detention for more than 6 months. The possibility to extend solitary confinement beyond 6 months is only to be used in cases involving the most serious forms of crime. This refers in particular to cases of a professional, highly organized character, with international relations.

38. In 2015, the average length of solitary confinement during pre-trial detention was 19 days, and no one exceeded eight weeks. In 2016, there were 37 solitary confinements during pre-trial detention. 15 of these did not exceed two weeks and no one exceeded eight weeks.

C. “regularly evaluate the effects of solitary confinement”

39. Denmark continues to keep the use of solitary confinement under close review.

40. The police districts report the use of solitary confinements every three months to the State Prosecutors.

41. The State Prosecutors give annual reports to the DPP concerning the use of solitary confinement explaining the use of solitary confinement, including the development in number and length. Including measures taken to reduce the use of solitary confinement and, if relevant, the report explains local and regional differences concerning the use of solitary confinement.

42. The DPP gives an annual report to the MoJ concerning the use of solitary confinement.

43. The MoJ also has a continuous focus on the use of administrative solitary confinement in state and local prisons, e.g. in connection with the publication of the annual statistics from the Prison and Probation Service.

44. Every month the Department of Prisons and Probation monitors the use of disciplinary cells in state and local prisons in cases concerning minors. Each case is

thoroughly examined in order to clarify, if the use of disciplinary cells has been absolutely necessary.

Recommendation 32a

45. Denmark respects the principle of non-refoulement, implemented in the Danish Aliens Act. All asylum seekers above the age of 18 years and all unaccompanied minors, who are assessed to be mature enough for the asylum proceedings, have access to an individual asylum procedure. Unaccompanied minors will be designated a personal representative to serve his/her interests. In all cases regarding grownups travelling with children, it is clarified whether the children have individual grounds for asylum.

46. Rejected asylum cases are automatically appealed to the Refugee Appeals Board (RAB), which examines the individual asylum claim, including whether the alien can be returned according to the principle of non-refoulement. The alien will be designated a lawyer free of charge during the appeal proceedings.

47. If an alien in principle has the right to asylum according to the Aliens Act article 7, but is excluded from receiving a residence permit according to the Aliens Act article 10 or the Refugees Convention article 1(F), and is covered by the principle of non-refoulement, the authorities will not enforce the return. The alien can stay in Denmark on tolerated stay until the RAB decides that the alien's rights according to the principle of non-refoulement are no longer in danger of being violated.

48. In all cases, the RAB considers claims on an individual basis, taking into account the case specific facts and all relevant evidence, including background information concerning the relevant country or area. For this purpose, the RAB uses a wide range of background information from different sources such as NGO's and foreign and national authorities.

49. As an example of how Denmark fulfils the principle of non-refoulement, on 3 May 2017 the RAB decided to suspend the transfers of asylum-seekers from Denmark to Hungary under the Dublin Regulation due to systemic deficiencies in the Hungarian asylum system, including the risk of refoulement to Serbia of persons, who have not yet had access to an asylum procedure.

50. Thus, Denmark has already taken measures and initiatives to fully implement the recommendation.

Recommendation 32b

51. It follows from the rules on deprivation of liberty in the Aliens Act that detention of aliens awaiting deportation shall always be necessary and proportionate. Detention may only take place if less restrictive measures are not sufficient, and alternatives must be applied if sufficient.

52. Every single case of deprivation of liberty is subject to individual examination and — if the alien is detained — the case must be brought before the court automatically within three days (see recommendation 32d on the special provision in § 37 k). The Danish police are always striving for the deportation to take place as soon as possible, so any deprivation of liberty will be as short as possible.

53. If the court rules that the deprivation of liberty was unlawful, the alien may bring a case before the court claiming financial compensation.

Recommendation 32c

54. It follows from the rules on deprivation of liberty in the Danish Aliens Act — which implement Article 15, (5) and (6) of the Return Directive (Directive 2008/115/EC) — that the maximum period of detention is six month that can be prolonged until 18 months in exceptional circumstances.

55. As the overall rule, detention is a last resort, and the police will only detain an alien awaiting deportation, when the alien does not return voluntarily and other less restrictive measures — e.g. an obligation to report to the police — proves insufficient. The Danish Police always strives for a return of the alien as quick as possible ensuing the alien is detained for the shortest possible period of time.

56. The living conditions for rejected asylum seekers detained at the institution Vridsløselille have been significantly improved in the autumn of 2016. The detained foreigners are only locked up in their cells in connection with yard time — one to two hours per day — if they do not wish to join the others outside. If locked up during yard time, they can associate with other detainees in the cell.

57. There is still a strong focus on the range of employment opportunities and activities for the detained foreigners. The detainees can participate in different types of employment/activities with other detainees, including at least one hour every day in the open air. The types of employment/activities are scheduled from week to week.

58. Association with other detainees is carried out as free association, either within the common areas of the institution or through activities organized by the institution, e.g. sport in the gymnasium or elsewhere.

59. The Danish Parliamentary Ombudsman, who has previously criticized the living conditions for detained foreigners at Vridsløselille, has on 19 December 2016 informed the MoJ that he does not have cause for further action as a result of his visits to the institution. The Ombudsman has been appointed National Preventive Mechanism (NPM) according to the OP to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Recommendation 32d

60. As mentioned under recommendation 32b cases of deprivation of liberty must be brought before a court within three days.

61. In November 2015, a suspension-rule (Aliens Act § 37 k) was introduced implying that in special cases the automatic judicial review of detention within three days may be suspended. If activated, the case may instead be brought before a court upon the aliens' request as soon as possible. Thus, detained migrants will still have access to judicial review of the legality of their detention.

62. The suspension-rule has been adopted for urgent situations in which the number of asylum seekers and immigrants arriving in Denmark increases significantly within a short period of time. It is assumed to be applied for as short a period as possible.

63. There has not yet been any situation requiring activation of the suspension-rule.

Recommendation 32e

64. The rules relating to confiscation of asylum seekers' assets imply that the Danish police may seize asylum seekers assets in order to cover the expenses for, in general, maintenance during the processing of the asylum case.

65. An asylum seeker found in possession of cash is allowed to keep DKK 10.000 (EUR 1.300). Cash exceeding this limit will be seized. Other assets than cash may be kept as long as the value does not exceed DKK 10.000 (EUR 1.300). Assets with a higher value may be seized. Assets with certain sentimental value for the asylum seeker such as engagement/wedding rings cannot be seized.

66. The rules on confiscation have been used on seven occasions. Approximately DKK 174.000 (around € 23.000) has been confiscated.

67. The rules on seizure reflect that it is a fundamental principle in Denmark that if you can support yourself, you must. This principle shall also apply for asylum seekers.

68. Based on the above mentioned, the Danish Government does not have any plans on re-pealing the rules on seizure of assets.
