



Last updated: March 2010

Denmark Detention Profile

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Irregular migrants are generally detained in Denmark only when alternatives to detention are deemed insufficient to ensure enforcement of immigration decisions. Anti-immigrant sentiment directed at the country's Muslim community has spurred a political backlash on immigration, which has helped lead to hardening immigration laws. A 2008 amendment to the *Aliens Act*, for example, provides for the prosecution of non-deportable irregular non-citizens who refuse to reside at assigned accommodation centres. Denmark detains few people; however, independent observers have criticized the prison-like conditions of the country's sole dedicated immigration detention facility and its policy of indefinite detention.

Detention Policy

The *Aliens Act*, which has been amended several times since it was originally passed in 1983, contains Denmark's principle immigration norms, including grounds for the expulsion and detention of non-citizens because of their status.

Grounds for deportation. Part IV of the *Aliens Act* provides grounds for the expulsion of irregular "aliens" from Denmark, including "if the alien is staying in Denmark without the requisite permit." In addition, anyone denied residency in Denmark—or whose residency is revoked or lapses—is issued an expulsion decision (Art. 32(a)). When irregular migrants refuse to leave Denmark voluntarily, the police are to "make arrangements" for their departure, as outlined in rules provided by the Minister of Refugee, Immigration, and Integration Affairs (Art. 30). Article 33 provides for the expulsion of rejected asylum seekers as well as grounds for non-citizens to appeal expulsion decisions.

Alternative measures. The *Aliens Act* provides a number of alternative measures instead of detention that can be imposed while officials determine the status of irregular non-citizens, including confiscation of passports; the payment of a bail; residence at "an address determined by the police"; and reporting to the police at specified times. If the person fails to abide by these measures, he/she can be forced to wear an electronic monitoring device (Art. 34(a)). The person can also be "remanded in custody when on definite grounds custody is found to be necessary to ensure alien's presence during his case and during a possible appeal until a decision on expulsion, if any, can be enforced" (Art. 35(1)).

Grounds for detention. Article 36 provides a number of grounds for administrative detention, including, *inter alia*, when: alternatives to detention are "insufficient to ensure enforcement of a refusal of entry, of expulsion ... of transfer or retransfer or of the return of an alien who is not otherwise entitled ... to stay in Denmark"; a person refuses to stay in the place designated; a non-citizen who has applied for residency "fails to appear for an interrogation at the police or the Danish Immigration Service" (Sec. 2); an asylum seeker obstructs the investigation into his or her claims (Sec. 4); a person refuses to cooperate with police arrangements for deportation (Secs. 5-8).

Judicial review and length of detention. According to Article 37, any non-citizen deprived of liberty under Article 36 must be brought before a court of justice within three days in order for the court to "rule on the lawfulness of the deprivation of liberty and its continuance" (Art. 37(1)). The person must also be assigned legal counsel (Art. 37(2)).

The *Aliens Act* does not specify a maximum length of detention, but it does require that a court regularly revisit detention orders to make a judgement on whether they should be extended. Section 3 of Article 37 stipulates, "If the alien is deprived of liberty at the time the decision is made and if his deprivation of liberty is found lawful, the court order must determine a time-limit for continued detention. The court may extend this time-limit at a later date, but by not more than 4 weeks at a time" (Art. 37).

A number of independent observers have criticized Denmark's policy of indefinite detention. In a 2008 report, the CPT stated that courts

allow for cumulatively prolonged detention periods, sometimes for up to two years (CPT 2008, p.44). During a 2008 visit to the country, the UN Special Rapporteur on Torture also found evidence of prolonged periods of immigration-related detention, with some people being confined for up to 18 months and facing “uncertainty as to how long they would remain in detention.” According to the special rapporteur, during the previous five years, courts had ruled on only two occasions not to prolong detention when it had been requested to do so by the police. He also found that many detainees would agree to sign documents presented to them while in detention that allow for automatic court approval of prolongation. The special rapporteur found that as a result of this situation, the “procedure of legal challenge of deprivation of liberty under article 37 of the Aliens Act is not as effective as one might expect” (Special Rapporteur 2009, p.17).

Sites of detention. The Danish Prison and Probation Service (PPS), part of the Ministry of Justice, lists Denmark’s secure prisons in its publication *Prison and Probation Service – in Brief*. This list includes facilities used for the administrative detention of irregular migrants, including the Ellebaek Institution for Detained Asylum Seekers and “two minor units for detained asylum-seekers in the local prisons of Aabenraa and Tønder” (PPS 2009, p.5).

Additional detention provisions. Article 37 of the *Aliens Act* provides additional detention provisions, including that people deprived of liberty not be “subject to other limitations to liberty than required by the purpose of the deprivation of liberty and the maintenance of order and security at the place where the alien is detained.” It also sanctions the use of solitary confinement under certain circumstances, and safeguards a non-citizen’s right to receive visitors and communicate with the outside world (Secs. a-e).

Criminalization. Part IX of the *Aliens Act* contains “penalty provisions”—including fines and imprisonment—for non-citizens who, inter alia, enter or leave Denmark at a non-designated passport check-point; stay in Denmark without the requisite permit; provide false information to authorities when entering the country; or work in Denmark without a valid permit. In addition, a 2008 amendment to the *Aliens Act* provides for the prosecution of non-deportable irregular non-citizens who refuse to reside at assigned accommodation centres (JRS USA 2010).

Asylum seekers. Asylum seekers are generally not detained in Denmark. Instead, the police can order asylum seekers to reside in one of the Danish Immigration Service’s non-secure accommodation centres while their case is being processed (DIS website b). Article 42 of the *Aliens Act* stipulates that non-citizens who can afford to are required to pay for health and food services at the centres; and that non-citizens over 18 enter into a contract with the accommodation operator—“private organisations or societies or government bodies approved for this purpose by the Minister of Refugees, Immigration and Integration Affairs, or municipalities”—that, among other things, obliges them to undertake tasks necessary for the operation of the accommodation centre (Art. 42c). The Danish Red Cross operates and administers most accommodation centres in Denmark (DIS website b).

Minors. Minors can be detained at the Ellebaek facility with their parents in a special unit for families (CPT 2008, p.45). Unaccompanied minors are transferred to the Gribskov centre for unaccompanied minors, administered by the Danish Red Cross (DRC website). According to the Danish Immigration Service, the asylum application of minors “will be processed as quickly as possible, and child applicants will be housed in special accommodation centres with specially trained personnel” (DIS Website e).

Detention Infrastructure

Denmark has one secure migrant detention centre, the **Ellebaek Institution for Detained Asylum Seekers** (formerly Sandholm Prison), which has a standard capacity of 118 (and a surge capacity of 137). The country also maintains specialized units in two prisons for holding people on immigration charges, the Aabenraa and Tønder prisons, which have a combined capacity of 17 (DPP 2009, p.5).

The Ellebaek facility is run by the Danish Prison and Probation Service (PPS), part of the Ministry of Justice (DPP 2009, p. 5). The facility is located on former military barracks 25 kilometres north of Copenhagen and is made up of five detention units. Up to three people share 18m² cells and females are segregated from males at night (CPT 2008, p.45; Special Rapporteur 2009, p.33). There is a small unit reserved for families, which observers claim is only used for periods of up to 48 hours. Detainees suspected of planning to escape are detained in a high security unit (CPT 2008, p.45). Detainees are free to move between units during the day and can participate in a variety of activities offered at the centre, including remunerated work and education (CPT 2008, p.46; Special Rapporteur 2009, p.33).

Detainees are provided with a short introductory leaflet when they enter Ellebaek (available in English, German and French). They are allowed contact with the outside world, have access to legal representation, and are provided health services (Special Rapporteur 2009, p.33). Detainees who require psychiatric care are transferred to the hospital adjacent to Western Prison in Copenhagen or the psychiatric

department of Hillerød Hospital (CPT 2008, p.46-48).

The CPT described conditions as “on the whole adequate,” with a “relatively relaxed atmosphere,” albeit with uncertainty among detainees as to the duration of their situation (CPT 2008, p.44-45). The UN Special Rapporteur on Torture reported in 2008 that conditions are “satisfactory, but well below the high standards found in the Danish prison system in general” (Special Rapporteur 2009, p.17). The CPT reported allegations of verbal abuse and rude, racist custodial staff behaviour (CPT 2008, p.44).

The CPT criticized Denmark for holding immigration detainees in conditions that resemble criminal incarceration, stating “that the regime at the Ellebaek Institution was based *mutatis mutandis* on that applicable to remand prisoners in Danish prisons, which did not reflect sufficiently the specificity of the establishment’s functions and limited the number of activities available. In the CPT’s view, both detainees and staff would benefit from a regime especially tailored to an establishment holding foreign nationals who are not serving sentences, but who are being detained administratively with a view to enforcing deportation” (CPT 2008, p.46).

In addition to the detention facilities, the Danish Immigration Service maintains non-secure accommodation centres for asylum seekers whose cases are still under review (DIS website b). The Danish Red Cross operates and administers most accommodation centres in Denmark (DIS website b) as well as two non-secure departure centres located at the Sandholm and Avnstrup accommodation centres (DIS website c; DRC website). These centres cater to non-citizens who “refuse to cooperate with the police over their departure from Denmark, having received the final rejection of their application for asylum, and who have not left the country by the set deadline” (DIS website c). While residents are free to come and go from the centre (Olander 2008), there is an entry and exit check, and extra guards and police are present to maintain order (DIS website c).

Facts & Figures

Denmark has one dedicated immigration detention facility, the Ellebaek Institution for Detained Asylum Seekers. In February 2008, 72 people were confined at Ellebaek, including 8 women (CPT 2008, p.44). The UN Special Rapporteur on Torture was informed that 41 non-citizens were detained at the facility on 1 November 2008 (Special Rapporteur 2009, p.17). According to the Prison and Probation Service, an average of 50 people are held on immigration-related charges each day in Denmark (DPP 2009, p.7).

Despite the relatively low numbers of detainees, the Ellebaek facility employed 55 full-time staff members in 2008, as well as three part-time security guards, four workshop supervisors, a teacher, a pedagogue, a gym instructor, and a maintenance worker (CPT 2008, p.47).

A total of 2,410 asylum applications were made in 2008 (DIS Website d). Approximately 50 percent of the 1,042 asylum application cases ruled on by the Immigration Service during 2008 were granted asylum. The majority of asylum seekers came from Iraq, Afghanistan, Iran, and Russia during this period (DIS website d). As of January 2009 there were 527 asylum applications pending a decision (UNHCR website).

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Denmark Detention Profile

List of Detention Sites

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Name	Status (Year)	Location	Facility Type	Security	Authority	Management	Capacity	Reported Population on a Single Day	Demographics & Segregation
Ellebaek Institution for Detained Foreigners (formerly Sandholm Prison)	In use (2009)	Birkerod	Migrant Detention Center	Secure	Ministry of Justice / Department of Prison and Probation	Danish Prison and Probation Service	118 (2009)	41 (1 November 2008)	Adult males and females, families, minors (2009). Segregation of men and women and family units (2009).
Aabenraa Prison (Special unit for detained asylum-seekers)	In use (2009)	Aabenraa	Prison	Secure	Ministry of Justice / Department of Prison and Probation Service	Danish Prison and Probation Service	[17 (combined total with Tønder 2009)]		
Tønder (Tønder) Prison (Special unit for detained asylum-seekers)	In use (2009)	Tønder (Tønder)	Prison	Secure	Ministry of Justice / Department of Prison and Probation Service	Danish Prison and Probation Service	[17 (combined total with Aabenraa 2009)]		

Sources

(This is only a partial list. More detailed information is available upon request.)

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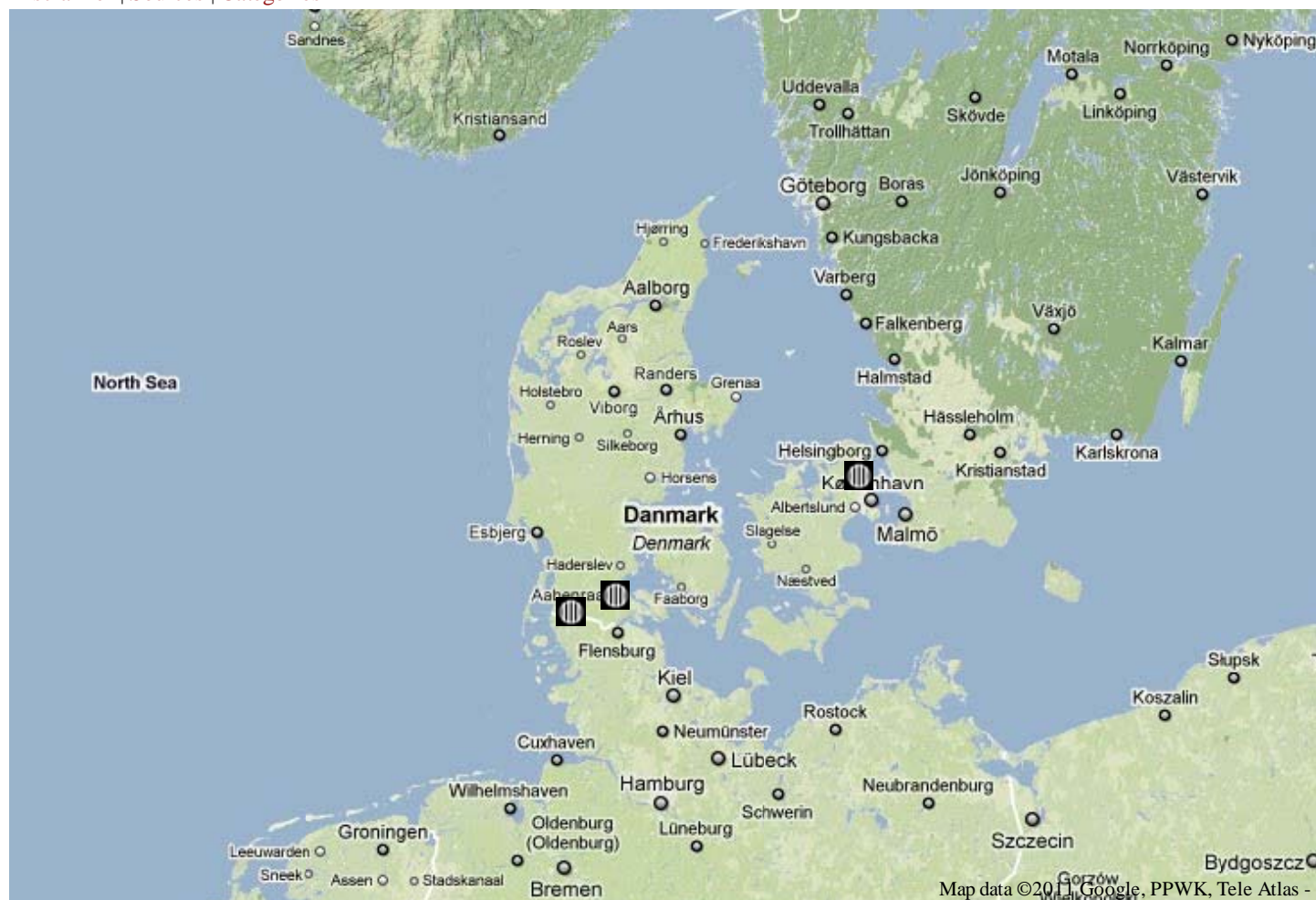
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Map of "In Use" Detention Sites

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Country View

1. [Aabenraa Prison \(Special unit for detained asylum-seekers\)](#)
2. [Ellebaek Institution for Detained Foreigners](#)
3. [Tønder Prison \(Special unit for detained asylum-seekers\)](#)

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Government Agencies

Danish Immigration Service
<http://www.nyidanmark.dk/en-US/>

Danish Department of Prison and Probation
<http://www.kriminalforsorgen.dk/>

International Organizations

IOM – Denmark
<http://iom.fi/content/view/227/174/>

UNHCR – Denmark Country Information
<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48e376>

NGOs & Research Institutions

Danish Institute for Human Rights
<http://www.humanrights.dk/>

Danish Red Cross (English)
<http://drk.dk/roede+kors+i+danmark/asyl/roede+kors+og+asylarbejdet/english+version>

Danish Refugee Council
<http://www.drc.dk/>

Save the Children - Denmark
http://www.redbarnet.dk/Front_page.aspx

Media

The Copenhagen Post Online
<http://www.cphpost.dk/>

Berlingske
<http://www.berlingske.dk/>

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