



# COUNTRY REPORT

IMMIGRATION DETENTION IN DENMARK:  
WHERE OFFICIALS CHEER THE DEPRIVATION  
OF LIBERTY OF "REJECTED ASYLUM SEEKERS"

*May 2018*



GLOBALDETENTIONPROJECT

## THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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# CONTENTS

Key Concerns	4
1. Introduction	5
2. Laws, Policies, Practices	7
2.1 Key norms	7
2.2 Grounds for detention	7
2.3 Asylum seekers	8
2.4 Children	8
2.5 Length of detention	9
2.6 Procedural guarantees	10
2.7 Detaining authorities and institutions	11
2.8 Non-custodial measures	11
2.9 Regulation of detention conditions	12
2.10 International monitoring	12
2.11 Criminalisation	13
2.12 Transparency and access to information	13
2.13 Trends and statistics	14
3. Detention Infrastructure	15
3.1 Summary	15
3.2 Detention and departure facilities	16
3.2a Ellebaek Detention Centre	16
3.2b Departure centres	20



## KEY CONCERNS

- Despite a drop in asylum applications, Denmark continues to aggressively pursue a highly restrictive migration agenda, adopting nearly 70 legal amendments tightening immigration laws between 2015-2018;
- The country's first instance refugee recognition rate has plunged, from 85 percent in 2015 to 36 percent in 2017;
- The Minister of Immigration and Integration argues that the country should detain as many rejected asylum seekers as possible, "stretching" to the limit the country's international obligations;
- Since November 2015, the Minister of Immigration has been authorised to declare "special circumstances," temporarily suspending safeguards, including timely court hearings, and narrowing the scope of the review of detention;
- There is little or no access to timely and comprehensive statistics concerning detention in Denmark and the country does not provide data on the annual total number of immigration detainees;
- Observers have repeatedly criticised the country's inadequate procedures for identifying victims of torture, who are at risk of being placed in immigration detention.



## 1. INTRODUCTION

During the last two decades, Denmark has undergone a dramatic shift in its migration policies and attitudes. Once regarded as a welcoming country for refugees and migrant workers, Denmark is now characterised by its highly restrictive immigration regime, anti-immigrant rhetoric, and hostility toward refugees. During the 2015-2018 period, the country adopted nearly 70 legal amendments tightening immigration laws.<sup>1</sup> Among the amendments was a controversial law requiring refugees to surrender cash and valuables worth more than 1,300 Euros as compensation for seeking asylum in the country.

An indication of the direction of Danish immigration policy was a planned 2016 visit by Danish authorities to [Australia's](#) controversial off-shore detention centre in [Nauru](#) to assess whether such a system could be replicated in Europe.<sup>2</sup> The visit was eventually cancelled following Nauru's announcement that it would not allow two of the delegation's members to enter the island due to their having publicly criticised Australia's immigration detention practices.

Denmark accommodates few refugees. In 2017, Parliament voted to refuse the UN's quota of 500 refugees, repeating the same decision it made in 2016 and 2017.<sup>3</sup> According to UNHCR, this decision made Denmark the only UN member to refuse to accept refugee quotas, despite Denmark being one of the first countries to sign the 1951 UN Refugee Convention.<sup>4</sup> Meanwhile, with growing restrictions, the number of asylum applicants has significantly decreased. In 2017, fewer than 3,500

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<sup>1</sup> M. Barrett, "Denmark Asylum Applications Lowest for Ten Years: Ministry," *The Local*, 3 January 2018, <https://www.thelocal.dk/20180103/denmark-asylum-applications-lowest-for-ten-years-ministry>

<sup>2</sup> K.J. Andersen and T. Foght, "Danske politikere skal besøge udskaeldt australsk flygtningelejr," *Radio 24syv*, 23 August 2016, <https://www.radio24syv.dk/udvalgte-nyhedshistorier/danske-politikere-skal-besoege-udskaeldt-australsk-flygtningelejr/>; M.G. Bochenek, "Danish Lawmakers Will Find Nauru No Model for Europe," *Human Rights Watch*, 2 September 2016, <https://www.hrw.org/news/2016/09/02/danish-lawmakers-will-find-nauru-no-model-europe>; P. Farrell, "Danish MP Confirms Visit to Nauru Camp at Heart of Offshore Detention Outcry," *The Guardian*, 23 August 2016, <https://www.theguardian.com/australia-news/2016/aug/23/danish-politicians-seek-to-visit-nauru-site-at-heart-of-offshore-detention-outcry>

<sup>3</sup> Ritzau/The Local, "Denmark Extends Block on UN Quota Refugees," *The Local*, 29 November 2017, <https://www.thelocal.dk/20171129/denmark-continues-block-on-un-quota-refugees>

<sup>4</sup> The Local, "Denmark Extends Block on UN Quota Refugees," *The Local*, 29 November 2017, <https://www.thelocal.dk/20171129/denmark-continues-block-on-un-quota-refugees>

applications were made—an 84 percent drop from 2015 and the lowest figure since 2008.<sup>5</sup>

Public officials frequently highlight their support for harsh policies to garner public support. For instance, in March 2017, the Immigration Minister launched a public celebration of the ratification of the 50th immigration amendment by [posting to social media](#) a photo of a celebratory cake featuring the number "50," which prompted a backlash from some segments of society.<sup>6</sup> Speaking on the topic of rejected asylum seekers going underground, the minister was quoted as saying, "I think we should deprive as many rejected asylum seekers of their liberty as even possible. What this is about is how far we can stretch it in relation to the international conventions."<sup>7</sup>

The country's immigration detention policies have drawn criticism from both domestic and international rights watchdogs, including the Committee on the Rights of the Child, the Committee against Torture, and the Human Rights Committee.<sup>8</sup> Particular concerns have been raised about the country's procedures for identifying victims of torture and placing them in detention, as well as the penitentiary-like conditions of Denmark's main immigration detention centre, the [Ellebaek Detention Centre](#).

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<sup>5</sup> Udlaendinge – og Integrationsministeriet, "Danmark fik i 2017 det laveste antal asylansøgere i ni år," 3 January 2018, [http://uim.dk/nyheder/2018-01/danmark-fik-i-2017-det-laveste-antal-asylansogere-i-ni-ar/newsitem\\_view?success=yes](http://uim.dk/nyheder/2018-01/danmark-fik-i-2017-det-laveste-antal-asylansogere-i-ni-ar/newsitem_view?success=yes); A. Mohdin, "Denmark is so Inhospitable to Refugees that Asylum Requests Dropped 84% in Two Years," *Quartz*, 4 January 2018, <https://qz.com/1171331/asylum-seekers-in-denmark-number-of-applications-has-fallen-by-84-since-2015/>

<sup>6</sup> L. Pasha-Robinson, "Danish Minister Sparks Furious Backlash after Celebrating Tougher Immigration Laws with Cake," *The Independent*, 16 March 2017, <https://ind.pn/2Htdn76>

<sup>7</sup> M.W. Mortensen and A. Thieden, "Jeg har ingen fine fornemmelser i forhold til at frihedsberøve afviste asylansøgere – tværtimod," *Berlingske*, 13 April 2017, <https://www.b.dk/nationalt/jeg-har-ingen-fine-fornemmelser-i-forhold-til-at-frihedsberoeve-afviste>

<sup>8</sup> Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Concluding Observations: Denmark, CRC/C/DNK/CO/4," 7 April 2011, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>; Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark, CAT/C/DNK/CO/6-7," 4 February 2016, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>; Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Denmark, CCPR/C/DNK/CO/6," 15 August 2016, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>



## 2. LAWS, POLICIES, PRACTICES

**2.1 Key Norms.** The 1983 Aliens Act ([Consolidation Act No. 863 of 25 June 2013](#)) (*Bekendtgørelse af udlændingeloven*), which has been amended several times, regulates Denmark's immigration policy, including entry conditions, residence permits, and the expulsion and detention of non-citizens, including both undocumented migrants and asylum seekers.

**2.2 Grounds for detention.** Grounds for administrative immigration-related detention are provided in Articles 35-36 of the Aliens Act. Some of these grounds concern specifically asylum seekers (see section 2.3 Asylum Seekers). The Aliens Act also provides grounds for criminal prosecution and incarceration for immigration-related violations (see section 2.11 Criminalisation).

Article 36 of the Aliens Act sets out a general ground justifying detention. According to this, non-citizens may be detained if non-custodial measures are deemed insufficient to ensure the enforcement of a refusal of entry, expulsion, transfer, or retransfer of a non-citizen (Article 36(1)). The same provision also spells out several more precise grounds for detention: a person who has applied for a residence permit can be detained if they refuse to stay at a location designated by the authorities or fail to appear for an interrogation with the police or the Immigration Service (Article 36(2)); asylum seekers can be detained if they do not assist the authorities in establishing the rationale for asylum application (Article 36(4)) (for more on asylum seekers, see the subsection "Asylum Seekers" below); non-citizens who are scheduled to be deported may be detained if they do not cooperate with the police in making arrangements for their deportation (Article 36(5)-(8)).

According to Article 35(1a), a non-citizen who is not habitually residing in Denmark may be detained when there are reasonable grounds to suspect that he/she has committed a crime that may lead to expulsion under Articles 22-24 (including committing an infraction punishable with a three-year prison sentence, multiple infractions punishable with a year-long prison sentence, and several crimes spelled out in the Criminal Code). Article 35(1b) further provides for detention when a non-citizen violates a re-entry ban. Finally, under Article 35a, non-citizens can be detained if they repetitively breach reporting duties.

**2.3 Asylum seekers.** Article 36(4) of the Aliens Acts provides that asylum seekers can be detained if they do not assist authorities in substantiating their asylum applications, including by failing to appear for police or immigration questioning, or concealing information about their identity, nationality, or travel route. According to the Prison and Probation Service, 2,180 asylum seekers were detained on grounds set out in Article 36, as well as Article 35. By comparison, in 2012, 1,494 asylum seekers were detained on these grounds.<sup>9</sup>

**2.4 Children.** Pursuant to Article 37(10) of the Aliens Act, children cannot be detained in prisons. According to UNICEF, in the absence of an alternative solution, children aged 15 - 17 may be placed in a local prison.<sup>10</sup> However, according to a source at the [Danish Refugee Council](#), “unaccompanied minors and children in families are not detained under the rules on detention in the Danish Aliens Act. A child may be detained as a part of a criminal procedure, but detention will always be carried out in a dedicated facility.”<sup>11</sup>

Previously, children were detained at the Ellebaek facility with their parents in a special unit for families.<sup>12</sup> According to statistics provided by the Prison and Probation Service, Ellebaek Detention Centre and Aabenraa Prison confined a total of 119 children in 2011, and 146 in 2010.<sup>13</sup> However, after its 2014 visit to Ellebaek Centre, the [European Committee for the Prevention of Torture](#) (CPT) said that the facility was not a suitable location for holding children, as the environment was inappropriate and it did not offer the necessary support that children require. The committee therefore recommended that the country put an end to the detention of children at Ellebaek centre altogether.<sup>14</sup>

In 2011, the UN [Committee on the Rights of the Child](#) (CRC) noted with concern that there was no legal framework to facilitate the granting of residence permits to child victims of trafficking. The CRC urged the country to ensure that children who are suspected victims of trafficking are not imprisoned as a result of conditions that are the consequence of their having been trafficked, and that they are instead provided

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<sup>9</sup> When an individual is transferred during their detention period, the individual will be recorded twice. *Kriminal Forsorgen*, “Årlige statistikberetninger,” <http://www.kriminalforsorgen.dk/%C3%85rlige-statistikberetninger-7541.aspx>

<sup>10</sup> UNICEF, “Protected on Paper? An Analysis of Nordic Country Responses to Asylum-Seeking Children,” 2018, <https://www.unicef-irc.org/publications/pdf/NORDIC%2028%20LOWRES.pdf>

<sup>11</sup> Anne Lund Preisler Herbst (Danish Refugee Council), Email exchange with Izabella Majcher (Global Detention Project), May 2018.

<sup>12</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26,” 25 September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>

<sup>13</sup> Prison and Probation Service, Response to Access Info Europe and the Global Detention Project Freedom of Information Request, 25 March 2013.

<sup>14</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25,” 17 September 2014, <http://www.cpt.coe.int/documents/dnk/2015-16-inf-eng.pdf>



with specialised assistance.<sup>15</sup> During the subsequent review of Denmark's implementation of the Convention of the Rights of the Child in 2017, the committee formulated a stronger recommendation. It urged the country to ensure that children are not, under any circumstances, placed in detention; to endeavour to place children in child-friendly accommodation under the protection of child authorities instead of asylum centres; and, in the meantime, to ensure that all unaccompanied children are placed in asylum centres specialised for the needs of minors, and to always ensure that siblings are kept together.<sup>16</sup>

**2.5 Length of detention.** Like [Sweden](#), Denmark introduced a time limit on immigration detention in order to comply with the [EU Returns Directive](#). Previously, the lack of a maximum permissible time limit on immigration detention drew criticism from human rights monitoring bodies, including the [UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment](#) and the European Committee for the Prevention of Torture.<sup>17</sup>

The Aliens Act sets out that the initial period of detention is not to exceed six months. The court may extend this period by another 12 months if deportation arrangements take longer because the detainee refuses to cooperate in the return process or there are delays in obtaining necessary travel documents (Article 37(8)). According to government sources, the average time a person spent at the Ellebaek facility in 2016 was 29 days.<sup>18</sup>

In 2015, the UN [Committee against Torture](#) stated that the 18-month detention limit for asylum seekers was "excessive." The committee thus recommended Denmark to reduce the length of administrative detention for asylum seekers (authorised under the Aliens Act) to as short a period as possible, bearing in mind that detention should be used as a measure of last resort.<sup>19</sup> In 2016, the UN [Human Rights Committee](#)

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<sup>15</sup> Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Concluding Observations: Denmark, CRC/C/DNK/CO/4," 7 April 2011, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>

<sup>16</sup> Committee on the Rights of the Child, "Concluding Observations on the Fifth Periodic Report of Denmark, CRC/C/DNK/CO/5," 26 October 2017, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>

<sup>17</sup> Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2," 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Government of Denmark on the visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008*, CPT/Inf (2008) 26," 25 September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>

<sup>18</sup> Office of the High Commissioner for Human Rights (OHCHR), "Committee against Torture Considers Report of Denmark," Press Release, 7 November 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16769&LangID=E>

<sup>19</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark, CAT/C/DNK/CO/6-7," 4 February 2016, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>

also recommended that Denmark should consider reducing the length of immigration detention.<sup>20</sup>

**2.6 Procedural guarantees.** According to Article 37(1)-(7) of the Aliens Act, a non-citizen deprived of liberty under Article 36 must be notified in writing about their detention and be brought before a court within three days in order for the court to rule on the lawfulness of their detention and its continuance. The individual must also be assigned legal counsel (Article 37(2)). According to government sources, detainees are always informed of the reason for their detention in a language they can understand.<sup>21</sup>

According to Article 37(3) of the Aliens Act, the decision order can be appealed in accordance with the provisions of Chapter 37 of the Code of Civil Procedure (Retsplejeloven). A decision from the District Court (Byretten) can be appealed to the High Court (either Østre Landsret or Vestre Landsret).

Following his 2009 visit to Denmark, the UN Special Rapporteur on Torture welcomed the fact that a mandatory *habeas corpus* procedure existed and that free legal aid was provided to all migrants in detention. However, the Special Rapporteur noted that according to information received during his visit, in the preceding five years, the court had approved the prolongation of detention periods, as requested by the police, on all but two occasions. Furthermore the Special Rapporteur was also informed that during that same period, approximately 50 percent of detainees at the Ellebaek centre accepted an automatic prolongation of their detention by signing a document to that effect in advance. The Rapporteur found that the de facto procedure of legally challenging deprivation of liberty under article 37 of the Aliens Act was not sufficiently effective.<sup>22</sup>

Since the November 2015 amendment to the Aliens Act, the Minister of Immigration and Integration may, during periods of high numbers of arrivals, declare “special circumstances” which allow for the temporary suspension of some of the safeguards normally governing detention. For instance, court hearings no longer have to take place within 72 hours of arrest, but “as soon as possible” and only at the request of the applicant. In this context, courts need only assess the legality of the detention, and do not rule on the duration of its possible extension. Following a decision on the legality of detention in a particular case, there is no right for a second review within

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<sup>20</sup> Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Denmark, CCPR/C/DNK/CO/6," 15 August 2016, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

<sup>21</sup> Office of the High Commissioner for Human Rights (OHCHR), "Committee against Torture Considers Report of Denmark," Press Release, 7 November 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16769&LangID=E>

<sup>22</sup> Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2," 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

four weeks (Article 37(k)).<sup>23</sup> Article 37(k) has never been used. The provisions from the November 2015 amendments are currently under review by the Danish Parliament.<sup>24</sup>

The UN [High Commissioner for Refugees](#) (UNHCR) expressed concern regarding the postponement of judicial reviews of detention, as well as the decision for reviews to be dependent on detainees specifically requesting them. As the UN Refugee Agency noted, “Such a situation could also lead to arbitrariness, in that during times of high influx, decisions might be taken in haste, and the need for an automatic review of the legality of detention by an independent court of law be more important than ever.”<sup>25</sup>

In 2016, the UN Human Rights Committee urged Denmark to repeal the November 2015 amendment introduced to the Aliens Act in order to ensure that, in all cases, detained migrants have full access to fundamental legal safeguards—in particular, to a judicial review of the legality of their detention.<sup>26</sup>

**2.7 Detaining authorities and institutions.** The [Danish Immigration Service](#)—which is under the authority of the Ministry of Immigration, Integration, and Housing—is the agency responsible for implementing immigration and asylum policies, including asylum procedures, family reunification, and visas.

The Danish Prison and Probation Service, which is responsible for managing Denmark's penal establishments, runs Ellebæk Detention Centre as well as prisons detaining non-citizens for immigration status related reasons, such as the Aabenraa Prison. Departure centres (Sjaelsmark and Kærshovedgård) are managed by the Immigration Service, but the Prison and Probation Service provides personnel (for more details on facilities, see “Detention Infrastructure” below).<sup>27</sup>

**2.8 Non-custodial measures.** Article 36 of the Aliens Act provides a general ground justifying detention, according to which non-citizens may be detained if non-custodial

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<sup>23</sup> UNHCR Regional Representation for Northern Europe, "UNHCR Observations on Amendments to the Danish Aliens Act as Set Out in *Lovforslag nr. L 62: Lov om ændring af udlændingeloven (Håndtering af flygtninge- og migrantsituationen)*," January 2016, [https://www.ecoi.net/en/file/local/1279094/1930\\_1452673777\\_5694ecf64.pdf](https://www.ecoi.net/en/file/local/1279094/1930_1452673777_5694ecf64.pdf)

<sup>24</sup> Anne Lund Preisler Herbst (Danish Refugee Council), Letter to Izabella Majcher (Global Detention Project), 25 May 2018.

<sup>25</sup> UNHCR Regional Representation for Northern Europe, "UNHCR Observations on Amendments to the Danish Aliens Act as Set Out in *Lovforslag nr. L 62: Lov om ændring af udlændingeloven (Håndtering af flygtninge- og migrantsituationen)*," January 2016, [https://www.ecoi.net/en/file/local/1279094/1930\\_1452673777\\_5694ecf64.pdf](https://www.ecoi.net/en/file/local/1279094/1930_1452673777_5694ecf64.pdf)

<sup>26</sup> Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Denmark, CCPR/C/DNK/CO/6," 15 August 2016, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

<sup>27</sup> Ole Kjeld Hansen (Prison and Probation Service), email correspondence with Izabella (Global Detention Project), March-April 2016; Prison and Probation Service, "The Danish Prison and Probation Service – in Brief," 2014, [http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort\\_og\\_godt\\_UK\\_juni+2015.pdf](http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort_og_godt_UK_juni+2015.pdf); Bodil Philip and Arne Stevns, "Report on Centres for Foreign Nationals and Deportation Centres in Denmark," *The Danish Helsinki Committee for Human Rights*, May 2017, [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DNK/INT\\_CCPR\\_NGS\\_DNK\\_29403\\_E.docx](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/DNK/INT_CCPR_NGS_DNK_29403_E.docx)

measures are deemed insufficient to ensure the enforcement of a refusal of entry, expulsion, transfer, or retransfer of non-citizen (Article 36(1)). The Aliens Act provides a number of non-custodial “alternatives to detention,” including: confiscation of passports; bail payment; residence at “an address determined by the police;” and reporting to the police at specified times. If the individual fails to abide by these measures, they can be forced to wear an electronic monitoring device (Article 34). In 2014, the European Commission reported that out of these measures, only residence restrictions, confiscation of passports, and reporting were employed in practice.<sup>28</sup>

In 2016, the Human Rights Committee urged Denmark to ensure that the detention of migrants and asylum seekers is reasonable, necessary, and proportionate in relation to the circumstances. This is in accordance with the committee’s general comment No. 35 (2014) on liberty and security of person, and that in practice, alternatives to detention are found.<sup>29</sup>

**2.9 Regulation of detention conditions.** The Aliens Act does not clearly designate places where migrants are to be detained. Instead, it merely provides that immigration detention should be enforced in “special facilities.” If that is not possible, immigration detainees must be kept separately from ordinary prisoners. Children, meanwhile, may not be detained in prisons (Article 37(10)). Article 37 stipulates that immigration detainees shall not be subject to limitations to their liberty, other than those required by the purpose of their detention and the maintenance of order and security at the place where they are detained.

Non-citizens are entitled to receive visitors and letters, and to communicate with the outside world. The Aliens Act sanctions the use of solitary confinement when this is judged necessary for obtaining information needed for assessing the legality of the non-citizen’s stay in Denmark or exploring the possibility of issuing a residence permit. The maximum length of solitary confinement is 4 weeks.

**2.10 International monitoring.** As a State Party to the [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#), Denmark receives regular monitoring visits from the European Committee for the Prevention of Torture (CPT), which inspects a sampling of detention-related facilities during each visit. The CPT’s reports based on these visits as well as government responses to its recommendations are posted on the [CPT’s website](#).

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<sup>28</sup> European Commission, “Communication from the Commission to the Council and the European Parliament on EU Return Policy, COM(2014) 199,” 28 March 2014, [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/com/com\\_com\(2014\)0199\\_/com\\_com\(2014\)0199\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2014)0199_/com_com(2014)0199_en.pdf)

<sup>29</sup> Human Rights Committee, “Concluding Observations on the Sixth Periodic Report of Denmark, CCPR/C/DNK/CO/6,” 15 August 2016, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

In 2009, the UN Special Rapporteur visited Denmark<sup>30</sup> and in the past few years the country has received detention-related recommendations from the UN Human Rights Committee, UN Committee on the Rights of the Child, and the UN Committee against Torture.<sup>31</sup>

**2.11 Criminalisation.** Part IX of the Aliens Act contains “penalty provisions.” Article 59(1) provides for a fine or imprisonment for up to six months when a non-citizen enters or leaves Denmark at a non-designated passport check-point, an individual stays in the country without the requisite permit, or an individual secures admission in to Denmark by deliberate misrepresentation.

Denmark has also enforced laws that punish citizens who provide basic forms of assistance to undocumented non-citizens. In March 2016, a high-profile Danish advocate for children’s rights was prosecuted and fined 3,000 Euros for helping transport Syrian refugees who sought to walk from Germany to Sweden. Under the Aliens Act, transporting undocumented non-citizens is a crime of human smuggling. According to police statistics, almost 280 people were charged under this provision during September 2015–February 2016.<sup>32</sup>

**2.12 Transparency and access to information.** The Global Detention Project was not able to learn the number of migrants detained on an annual basis in Denmark. The annual statistical yearbook published by the Danish Immigration Service does not include detention statistics.<sup>33</sup> The annual publication of the [Prison and Probation Service](#) provides the annual numbers of detained asylum seekers.<sup>34</sup> The Global Detention Project sent a query to the Prison Service asking for clarification about whether these statistics included all detainees<sup>35</sup> but had yet to receive a response at

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<sup>30</sup> Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2," 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

<sup>31</sup> Human Rights Committee, *Concluding observations on the seventh periodic report of Sweden*, CCPR/C/SWE/CO/7, 28 April 2016, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/SEIndex.aspx>; Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Concluding Observations: Denmark, CRC/C/DNK/CO/4," 7 April 2011, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark, CAT/C/DNK/CO/6-7," 4 February 2016, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>

<sup>32</sup> David Crouch, "Danish children’s rights activist fined for people trafficking," *The Guardian*, 11 March 2016, <http://www.theguardian.com/world/2016/mar/11/danish-childrens-rights-activist-lisbeth-zornig-people-trafficking>

<sup>33</sup> Danish Immigration Service, *Statistical Overview: Migration and Asylum 2015, 2016*, <https://www.nyidanmark.dk/NR/rdonlyres/6460D4F5-F48B-4724-9ED6-0BCD97683104/0/StatisticalOverview2015.pdf>

<sup>34</sup> Prison and Probation Service, "The Danish Prison and Probation Service – In Brief," 2017, [www.kriminalforsorgen.dk/Admin/Public/DWSDownload.aspx?File=%2fFiles%2fFiler%2fPublikationer%2fAarsberetninger%2fKriminalforsorgens+Statistik+2016.pdf](http://www.kriminalforsorgen.dk/Admin/Public/DWSDownload.aspx?File=%2fFiles%2fFiler%2fPublikationer%2fAarsberetninger%2fKriminalforsorgens+Statistik+2016.pdf)

<sup>35</sup> Izabella Majcher (Global Detention Project), Online Form, Prison and Probation Service website, 20 March 2018.

the time of this publication.

Previously, in March 2013, the Prison and Probation Service responded to the joint Access Info and Global Detention Project request for information giving daily average figures for detained non-citizens: 86 in 2012, 65 in 2011, 53 in 2010.<sup>36</sup> The Global Detention Project contacted both the Immigration Service and the Prison and Probation Service, yet none of these institutions were able to give the total number of migrants detained annually. However, the Prison and Probation Service told the Global Detention Project that on average the daily population in 2014 was 91.1 persons in Ellebaek and 1.3 in Aabenraa, compared to 77.1 and 1.4 in these institutions in 2015.<sup>37</sup>

**2.13 Trends and statistics.** According to statistics provided by the Prison and Probation Service, 2,180 asylum seekers were detained on grounds set out in Articles 35-36 of the Aliens Act in 2016; 1,926 in 2015; 1,477 in 2014; 1,558 in 2013; and 1,494 in 2012. Men constitute approximately 90 percent of immigration detainees.<sup>38</sup>

The Immigration Services recognition rate (in the first instance) for asylum seekers has dropped dramatically in recent years, from 85 percent in 2015 to 36 percent in 2017.<sup>39</sup>

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<sup>36</sup> Susanne Hildebrandt (Prison and Probation Service), email response to the joint Access Info and Global Detention Project request, March 2013.

<sup>37</sup> Ole Kjeld Hansen (Prison and Probation Service), Email correspondence with Izabella Majcher (Global Detention Project), March-April 2016.

<sup>38</sup> When an individual is transferred during their detention period, the individual will be recorded twice. *Kriminal Forsorgen*, "Årlige statistikberetninger," <http://www.kriminalforsorgen.dk/%C3%85rlige-statistikberetninger-7541.aspx>

<sup>39</sup> Michala Clante Bendixen, "What Are the Chances of Being Granted Asylum?" Refugees.dk, 29 January 2018, <http://refugees.dk/en/facts/numbers-and-statistics/what-are-the-chances-of-being-granted-asylum/>



### 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** Denmark appears to use three facilities for the purposes of long-term immigration detention: one dedicated facility; the [Ellebaek Detention Centre](#); one prison with a specialised migration section, the [Aabenraa Prison](#); and [Nykøbing Falster Arrest](#).

The **Ellebaek Detention Centre** (Ellebaek Prison and Probation Establishment for Asylum Seekers and Others Deprived of their Liberty, formerly Sandholm Prison) is the longest standing immigration facility with a capacity of 136.<sup>40</sup>

The **Aabenraa Prison** has a specialised 10-person unit where non-citizens on immigration charges can be held.<sup>41</sup>

The **Nykøbing Falster Arrest**, in operation since 2016, is used for detaining rejected asylum seekers.<sup>42</sup> The Prison and Probation Service has stated that it is preferable to detain rejected asylum seekers in Ellebaek so that Nykøbing can be used as an ordinary prison to relieve overcrowding in prisons, indicating that this facility is used for both administrative and criminal procedures.<sup>43</sup> However, according to a source with the Danish Refugee Council, Nykøbing ceased being used as a criminal prison

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<sup>40</sup> Anne Lund Preisler Herbst (Danish Refugee Council), Letter to Izabella Majcher (Global Detention Project), 25 May 2018; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee from 4 to 13 February 2014, CPT/Inf (2014) 25," September 2014, <http://www.cpt.coe.int/documents/dnk/2015-16-inf-eng.pdf>; Prison and Probation Service, "The Danish Prison and Probation Service – in Brief," 2014, [http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort\\_og\\_godt\\_UK\\_juni+2015.pdf](http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort_og_godt_UK_juni+2015.pdf); Prison and Probation Service, "The Danish Prison and Probation Service – In Brief," 2017, [www.kriminalforsorgen.dk/Admin/Public/DWSDownload.aspx?File=%2fFiles%2fFiler%2fPublikationer%2fAarsberetninger%2fKriminalforsorgens+Statistik+2016.pdf](http://www.kriminalforsorgen.dk/Admin/Public/DWSDownload.aspx?File=%2fFiles%2fFiler%2fPublikationer%2fAarsberetninger%2fKriminalforsorgens+Statistik+2016.pdf)

<sup>41</sup> Prison and Probation Service, "The Danish Prison and Probation Service – in Brief," 2014, [http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort\\_og\\_godt\\_UK\\_juni+2015.pdf](http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort_og_godt_UK_juni+2015.pdf)

<sup>42</sup> *Folketidende*, "Afviste asylansøgere ind i Nykøbing arrest," *Folketidende*, <https://folketidende.dk/Lokal-nyt/Afviste-asylansogere-ind-i-Nykoebing-arrest/artikel/457056>, *Kriminal Forsorgen*, "Statistik," 2016, <http://www.kriminalforsorgen.dk/%C3%85rlige-statistikberetninger-7541.aspx>

<sup>43</sup> A. Lundbye, "Fængselsbetjente vil bruge arrest til dens oprindelige formål," *TV øst*, 11 March 2018, <https://www.tveast.dk/artikel/faengselsbetjente-vil-bruge-arrest-til-dens-oprindelige-formaal>

in October 2017 and has been used exclusively for immigration-related reasons since the beginning of 2018.<sup>44</sup> As of March 2018, its capacity was 24.<sup>45</sup>

Non-citizens may also be confined in **Vestre Fængse Prison** for very brief periods, less than two days. They are held separately from other prisoners before being transferred to the Ellebaek facility. In 2015, 497 migrants passed through Vestre Fængse.<sup>46</sup> In general, if a person has been detained as a part of a criminal case and the detention has been upheld according to the Aliens Act after the criminal sentence has been carried out, the person can be briefly detained in one of various prisons across Denmark.<sup>47</sup> In 2013, the Prison and Probation Service informed Access Info and the Global Detention Project that migrants have occasionally been held in remand prisons. Reportedly, 127 non-citizens were detained in remand prisons in 2012; 82 in 2011; and 63 in 2010.<sup>48</sup>

Facilities that were formerly used by Denmark for immigration purposes include: the **Vridsløselille Prison**, which ceased operations in February 2018<sup>49</sup>; and a detention unit in **Tønder Prison**, which was similar to the one in Aabenraa Prison.<sup>50</sup>

### 3.2 Conditions at detention and departure facilities.

**3.2a Ellebaek Detention Centre.** Denmark's principal secure immigration detention centre, the Ellebaek Detention Centre, was opened in late 1989 following criticism voiced in the country's parliament over the practice of detaining migrants in remand prisons. The Ellebaek facility is run by the Prison and Probation Service, which is part of the Ministry of Justice. The facility is located on the site of former military

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<sup>44</sup> Anne Lund Preisler Herbst (Danish Refugee Council), Letter to Izabella Majcher (Global Detention Project), 25 May 2018.

<sup>45</sup> Anne Lund Preisler Herbst (Danish Refugee Council), Letter to Izabella Majcher (Global Detention Project), 25 May 2018.

<sup>46</sup> Ole Kjeld Hansen (Prison and Probation Service), Email correspondence with Izabella Majcher (Global Detention Project), March-April 2016; Kirstine Løkke Degn Borg (Danish Immigration Service), Email correspondence with Izabella Majcher (Global Detention Project), March-April 2016.

<sup>47</sup> Anne Lund Preisler Herbst (Danish Refugee Council), Letter to Izabella Majcher (Global Detention Project), 25 May 2018.

<sup>48</sup> Susanne Hildebrandt (Prison and Probation Service), response to access to information request (Access Info and Global Detention Project), March 2013.

<sup>49</sup> *Kriminal Forsorgen*, "Vridsløselille Fængsel lægges i dvale," 23 January 2018, <http://www.kriminalforsorgen.dk/Presse-8407.aspx#/news/vridsløselille-faengsel-laegges-i-dvale-291079>

<sup>50</sup> Prison and Probation Service, "The Danish Prison and Probation Service – in Brief," 2009, [http://www.globaldetentionproject.org/sites/default/files/fileadmin/docs/Danish\\_Prison\\_and\\_Probation\\_Service\\_-\\_In\\_Brief.pdf](http://www.globaldetentionproject.org/sites/default/files/fileadmin/docs/Danish_Prison_and_Probation_Service_-_In_Brief.pdf)



barracks 25 kilometres north of Copenhagen. As of 2018, the centre's capacity was 136. In contrast, the capacity in 1990 was 40.<sup>51</sup>

There have not been any recent reports of overcrowding in Ellebaek. Statistics concerning the centre's daily detainee population, collected by the Global Detention Project, corroborate this. For instance, in February 2014 the centre was holding 105 non-citizens, of whom 87 were asylum seekers and 18 were pre-removal detainees. The detainee population included three women and one minor.<sup>52</sup> On 8 May 2008, Ellebaek confined 58 non-citizens, while in February 2008 it confined 72 people, including 8 women.<sup>53</sup> According to government sources, 41 non-citizens were detained at the facility on 1 November 2008, while 73 were detained on 7 November 2015.<sup>54</sup>

As of 2008, the facility was made up of five detention units, reportedly allowing for the separation of different categories and nationalities of detainees. There was one unit for women and another smaller one for families. Detainees suspected of planning to escape were detained in a high security unit. In addition, the facility tends

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<sup>51</sup> Anne Lund Preisler Herbst (Danish Refugee Council), Letter to Izabella Majcher (Global Detention Project), 25 May 2018; Prison and Probation Service, "The Danish Prison and Probation Service – In Brief," 2017, [www.kriminalforsorgen.dk/Admin/Public/DWSDownload.aspx?File=%2fFiles%2fFiler%2fPublikationer%2fAarsberetninger%2fKriminalforsorgens+Statistik+2016.pdf](http://www.kriminalforsorgen.dk/Admin/Public/DWSDownload.aspx?File=%2fFiles%2fFiler%2fPublikationer%2fAarsberetninger%2fKriminalforsorgens+Statistik+2016.pdf); European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Danish Government on the visit to Denmark Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25," September 2014, <http://www.cpt.coe.int/documents/dnk/2015-16-inf-eng.pdf>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26," September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Denmark on the Visit to Denmark Carried Put by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 8 December 1990, CPT/Inf (91) 12," October 1991, <https://rm.coe.int/1680695692>

<sup>52</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25," September 2014, <http://www.cpt.coe.int/documents/dnk/2015-16-inf-eng.pdf>

<sup>53</sup> Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2," 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26," September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>

<sup>54</sup> Office of the High Commissioner for Human Rights (OHCHR), "Committee Against Torture Considers Report of Denmark: Press Release," 7 November 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16769&LangID=E>; Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2," 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

to confine asylum seekers separately from pre-removal detainees, and 18 square metres-cells are shared by up to three people.<sup>55</sup>

In 2008, both the CPT and UN Special Rapporteur on Torture visited the facility. Both bodies noted that material conditions were “on the whole adequate” and “satisfactory,” but below the standards found in Danish prison establishments. In addition, the CPT found that detention units were in a run-down state wherein most of the cells needed cleaning, and recreational areas appeared to be in a bad state of repair. The CPT thus recommended that detention units are cleaned and refurbished, that bedding arrangements are improved, and that the environment is made more appealing.<sup>56</sup> During its 2014 visit, the CPT again noted that the material conditions in the centre were generally adequate, albeit basic, run down, and carceral. The committee subsequently recommended that Denmark maintain the centre in a decent state of repair.<sup>57</sup>

The penitentiary-like character of Ellebaek has repeatedly been the focus of criticism. During its 2015 review of Denmark, the UN Committee against Torture reported that Danish officials consider the centre’s prison-like structural layout and fixtures to be necessary for security reasons. The committee recommended that Denmark alter the layout and fixtures so as to change the carceral appearance of the centre.<sup>58</sup>

This recommendation echoed observations made by the CPT in 2008. The committee observed that detainees were free to move between units during the day and could participate in a variety of activities offered at the centre, including very basic remunerated work and at least one hour of outdoor exercise. That notwithstanding, the committee noted that the centre's regime was based *mutatis mutandis* on that found in Danish prisons, and thus did not sufficiently reflect the specificity of the establishment’s functions and subsequently limited the activities available. Similarly, it was observed that the centre used the same disciplinary

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<sup>55</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26,” September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>

<sup>56</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26,” September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>; Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2,” 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

<sup>57</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25,” September 2014, <http://www.cpt.coe.int/documents/dnk/2015-16-inf-eng.pdf>

<sup>58</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark, CAT/C/DNK/CO/6-7,” 4 February 2016, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>

system as prisons, however it did not have a security cell.<sup>59</sup>

In the CPT's view, both detainees and staff would benefit from a regime specifically tailored to an establishment housing foreign nationals who are not serving criminal sentences, but who are being detained administratively with a view to enforcing deportation.<sup>60</sup> In 2015, the committee thus highlighted the centre's policy of preventing detainees from keeping their mobile phones, revealing that several had complained about the expenses and procedures in using pre-paid phone cards. In its report, the committee recommended that authorities permit detainees to use their own mobile devices.

As of 2008, the Ellebaek facility employed 55 full-time staff members, as well as three part-time security guards, four workshop supervisors, one teacher, one pedagogue, one gym instructor, and one maintenance worker. The CPT noted that the general atmosphere was relatively relaxed but that it had received several allegations of verbal abuse and racist behaviour.<sup>61</sup>

There are two nurses on duty during weekdays, and a doctor visits the centre twice a week. Access to medical care outside of these days is possible in emergencies, but it is the responsibility of prison officers to identify the detainee's need for medical attention. It appears, however, that there is no access to mental health assistance at the facility. Detainees requiring psychiatric care have previously been transferred to the hospital adjacent to the Western Prison in Copenhagen or the psychiatric department of Hillerod Hospital.<sup>62</sup>

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<sup>59</sup> Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2," 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

<sup>60</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26," September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>

<sup>61</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26," September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>

<sup>62</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25," September 2014, <http://www.cpt.coe.int/documents/dnk/2015-16-inf-eng.pdf>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Denmark on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26," September 2008, <http://www.cpt.coe.int/documents/dnk/2008-26-inf-eng.pdf>; Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission To Denmark, A/HRC/10/44/Add.2," 18 February 2009, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DKIndex.aspx>

In 2015, the UN Committee against Torture found that admission procedures at the Ellebaek centre were insufficient—specifically, decisions regarding the fitness of non-citizens for detention, and the identification of victims of torture, which were made by a nurse. The committee also expressed concern that the centre lacked a system for treating victims of torture upon their identification during detention. The committee thus urged Denmark to: (a) put in place procedures for the systematic screening and medical examination of alleged torture victims by qualified personnel throughout the asylum process, including at places of detention such as the Ellebaek centre; and (b) ensure that victims of torture are not held in places where they are deprived of their liberty, and that they have prompt access to rehabilitation services.<sup>63</sup>

Following its 2014 visit, the CPT also urged Denmark to ensure that all newly admitted detainees are clinically assessed by a doctor (or a fully qualified nurse reporting to a doctor) as soon as possible. In addition, the CPT said that a screening system should be put in place to identify victims of torture.<sup>64</sup>

In 2013, the Medical Group of Amnesty International Denmark released a highly critical report regarding the treatment of victims of torture. Of 43 immigration detainees examined by the organisation, it found that 22 had been subjected to torture in their country of origin. Amnesty expressed concern regarding the lack of an appropriate monitoring system to ensure that victims of torture and other vulnerable persons are exempted from detention.<sup>65</sup> In the organisation's submission to the Universal Periodic Review in 2015, Amnesty echoed the CPT's calls for a screening system, stating that a monitoring system must be established, with the participation of medical specialists including psychiatrists, to identify torture survivors amongst asylum seekers, and to ensure that such individuals are not placed in detention.<sup>66</sup>

**3.2b Departure Centres.** Until February 2018, refused asylum-seekers facing deportation were housed in the non-secure Departure Centre Sjælsmark.<sup>67</sup> Since

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<sup>63</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark, CAT/C/DNK/CO/6-7," 4 February 2016, <http://ohchr.org/EN/countries/ENACARegion/Pages/DKIndex.aspx>

<sup>64</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25," September 2014, <http://www.cpt.coe.int/documents/dnk/2015-16-inf-eng.pdf>

<sup>65</sup> Amnesty International, "Denmark: Human Rights in Review: 2011-2015: Amnesty International Submission to the UN Universal Periodic Review, January - February 2016," 2015, <https://www.amnesty.org/en/documents/eur18/2332/2015/en/>; Amnesty Internationals Danske Lægegruppe, "Frihedsberøvede asylansøgere i Ellebæk," 2013, [https://amnesty.dk/media/1874/frihedsber\\_vede\\_asylans\\_gere\\_i\\_elleb\\_k\\_2013.pdf](https://amnesty.dk/media/1874/frihedsber_vede_asylans_gere_i_elleb_k_2013.pdf)

<sup>66</sup> Amnesty International, "Denmark: Human Rights in Review: 2011-2015: Amnesty International Submission to the UN Universal Periodic Review, January - February 2016," 2015, <https://www.amnesty.org/en/documents/eur18/2332/2015/en/>

<sup>67</sup> Prison and Probation Service, "The Danish Prison and Probation Service – in Brief," 2014, [http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort\\_og\\_godt\\_UK\\_juni+2015.pdf](http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort_og_godt_UK_juni+2015.pdf)

then, however, those who do not immediately leave the country are sent to the new non-secure **Avnstrup Return Centre** (*hjemrejsecenter*). Before being turned into a return centre, the facility had been used as an asylum centre. Operated by the Danish Red Cross, it has a capacity of 600.<sup>68</sup> On-site, rejected asylum seekers are divided into two categories: those who are considered to be cooperating with their departure and are permitted to stay in the facility, and those who are estimated to be unwilling to leave and who are subsequently transferred to one of the country's two non-secure departure centres (*udrejsecentres*)—either to the **Departure Centre Sjælsmark** (families) or to the **Departure Centre Kærshovedgård** (remaining non-citizens). All three of these centres are subject to a new "cafeteria scheme," whereby rejected asylum seekers are served food at fixed times of day instead of being provided with money that allows them to buy the food they would like to cook for themselves. This new procedure is part of the government's plan to better control rejected asylum seekers and to more efficiently return them to their countries of origin.<sup>69</sup>

The **Departure Centre Sjælsmark**<sup>70</sup> opened in early 2015 on the premises of a former military base. As of March 2016, the centre was able to accommodate 130 persons, but this was planned to be extended to 400-700. Although it reportedly resembles a penitentiary—it is run by the Prison Service, has high metal fences, and employs armed guards—the centre does not operate like a prison or a detention centre because, while detainees are obliged to stay overnight, they can leave the facility during the day. (Absence for a few days, however, is punished with detention at the closed Ellebæk centre.) Detainees are checked when leaving and re-entering the centre, and there are guards inside the premises. Most of the rooms are double-rooms, there is a nurse on-site, and food is served three times a day.<sup>71</sup>

The **Departure Centre Kærshovedgård**, which was opened in March 2016 in Jutland, has a substantially larger capacity of 600.<sup>72</sup> Like Sjælsmark, Kærshovedgård does not operate as a detention centre. However, its remote location, poor living conditions, and impossibility for many to return to their countries of origin renders the situation intolerable for the centre's residents. According to a scholar at Aalborg University: "This is a very serious situation, due in part to the very rationale behind such expulsion centres. They are built on a logic that people can be

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<sup>68</sup> The Danish Immigration Service, "About 70 Rejected Asylum Seekers Transferred to Newly Established Transit Centre," 23 February 2018, <https://www.nyidanmark.dk/en-GB/News-Front-Page/2018/02/Cirka-70-afviste-asylansoegere--til-nyt-hjemrejsecenter>

<sup>69</sup> *Udlaendinge – og Integrationsministeriet*, "Asylcenter Avnstrup bliver nyt hjemrejsecenter," December 2017, <http://uim.dk/nyheder/2017/2017-12/asylcenter-avnstrup-bliver-nyt-hjemrejsecenter>

<sup>70</sup> Prison and Probation Service, "The Danish Prison and Probation Service – in Brief," 2014, [http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort\\_og\\_godt\\_UK\\_juni+2015.pdf](http://www.kriminalforsorgen.dk/Admin/Public/Download.aspx?file=Files%2FFiler%2FFoldere%2Fkort_og_godt_UK_juni+2015.pdf)

<sup>71</sup> Negar, "Is this a Prison?: Inside the New Departure Center – Sjælsmark," *New Times*, 2015, No. 93, [https://issuu.com/robinsandholm/docs/newtimes\\_\\_93\\_spring\\_2015](https://issuu.com/robinsandholm/docs/newtimes__93_spring_2015); Kirstine Løkke Degn Borg (Danish Immigration Service), Email correspondence with Izabella Majcher (Global Detention Project), March-April 2016.

<sup>72</sup> C.U. Bank, "Facts About The New Return Center Kærshovedgaard," *New Times*, 201, No. 98, [http://newtimes.dk/wp-content/uploads/2016/06/nt98\\_ver5\\_200dpi.pdf](http://newtimes.dk/wp-content/uploads/2016/06/nt98_ver5_200dpi.pdf)

motivated to leave the country. This means that the centre's main function is to impose living conditions so intolerable that people will leave. Consequently, [the centres] are not created in a way that allows for a normal, healthy life."<sup>73</sup>

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<sup>73</sup> M. Barret, "Denmark Rejected Asylum Seekers Hunger Strike Against 'Intolerable' Circumstances," *The Local*, 21 October 2017, <https://www.thelocal.dk/20171021/rejected-asylum-seekers-at-denmark-deportation-centre-hunger-strike-in-bid-to-bring-attention-to-intolerable-circumstances>



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