



**FOLKETINGETS  
OMBUDSMAND**

**The Danish NPM's  
information and  
comments to the Danish  
Government's eighth  
periodic report to CAT**

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## **1. Introduction**

In a letter of 29 August 2023, the Committee against Torture (CAT) has asked the Danish NPM to provide the Committee with information that the Danish NPM finds relevant to the implementation of the Convention against Torture in Denmark.

Since 2009, the Parliamentary Ombudsman has been appointed as NPM in Denmark. In his capacity as NPM, the Ombudsman carries out monitoring visits according to the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights advise the Ombudsman in his capacity as NPM and contribute to the cooperation with special medical and human rights expertise. Staff from the institutions participate in the monitoring visits. The functions of the NPM are carried out as an integral part of the Ombudsman's work.

This document contains the Danish NPM's comments and information relevant to the subjects described in the Committee's List of issues prior to reporting (CAT/C/DNK/QPR/8 – published on 13 June 2018) and the Danish Government's eighth periodic report (CAT/C/DNK/8 – submitted on 9 December 2019). The document not only contains information relating to the period covered by the Danish Government's report, but also information for the entire period up till now.

The Danish NPM has contributed to the preparation of the Danish Government's report regarding paragraphs 17-26 on the Parliamentary Ombudsman's activities and achievements.

In this connection, the Danish Government has enclosed an annex (Annex 1) with links to material, including thematic reports, regarding the Danish NPM's work until 2017. To the extent that results from thematic reports are described in the following, these reports can be found and read in their entirety on the Parliamentary Ombudsman's [website](#).

The Ombudsman's monitoring visits as NPM in accordance with the mandate have a preventive purpose. Hence, the fact that recommendations have been made during a visit does not in itself imply that there has been a violation of the provisions of the Convention.

## **2. Article 2 of the Convention**

### **2.1. Paragraph 4 of the list of issues – on fundamental legal safeguards of detainees**

Paragraphs 11-16 in the Danish Government's report concern the fundamental legal safeguards of detainees and how these safeguards are ensured from the outset of deprivation of liberty.

In 2022, the Danish NPM examined the conditions for new remand prisoners, including how the police ensure that persons arrested by the police are aware of their rights, for instance the right to contact relatives and legal counsel, and how new remand prisoners are received in the Prison and Probation Service, including how they are informed of their rights.

The NPM found that the police in general take care to inform arrestees of their rights etc. It was also found that the police in general ensure the requisition of timely medical assistance from a doctor for arrestees complaining about or presenting symptoms of illness that may require urgent medical attention. The NPM gave few specific recommendations primarily regarding the police's documentation of the guidance given to arrestees.

The NPM found that the Prison and Probation Service in general takes care to inform new remand prisoners of their rights etc. and to ensure their safety. However, there were in several instances a need to increase and maintain the focus on the requirements for the local prisons when they receive new inmates, including remand prisoners.

The investigation also showed that prison officers to a great extent uncover new inmates' mental health conditions without having received prior guidance about this task and without supervision. On that background, the NPM recommended that the Prison and Probation Service ensure that staff receive guidance or training in uncovering mental health conditions, including suicidal thoughts, when receiving new inmates.

## **3. Article 11 of the Convention**

### **3.1. Paragraph 19 of the list of issues – on minors in detention**

#### *3.1.1. Young people in local and state prisons*

Paragraphs 145-148 in the Danish Government's report concern minors in detention.

In 2017, the Danish NPM examined the conditions for young people in secure residential institutions and local and state prisons. The monitoring visits gave the NPM the impression that the institutions generally delivered an important and valuable contribution, partly to help and support the young people during the placement, and partly to give the young people a foundation on which they could build their future and further development after the placement had ended.

With respect to the Prison and Probation Service institutions, the NPM found that there were a number of challenges connected with conditions for 15-17-year-old inmates, for instance regulation of education for inmates of compulsory school age, placement and regulation of association in certain closed prisons and preparation of treatment programmes. The NPM recommended to some institutions that they improved the information to the young people about their rights in local and state prisons and that the staff have knowledge of the rules pertaining to 15-17-year-old inmates.

The recommendations and following discussions with the authorities made the Ministry of Justice draw up rules on education of inmates of compulsory school age. In addition, the Department of Prisons and Probation issued guidelines for staff on the special rules applying to 15-17-year-olds in Prison and Probation Service institutions. This was done in order to support the staff's knowledge of the rules and to ensure consistent compliance. According to the guidelines, both an action plan and a special treatment programme must be created for young inmates.

### *3.1.2. Children in prisons with an incarcerated parent*

Paragraph 151 in the Danish Government's report concerns the establishment of a women's prison, Jyderup Prison.

In 2023, the Danish NPM was on a monitoring visit to Jyderup Prison. The focus of the visit was the conditions for small children, since the female inmates under certain circumstances are able to bring their small children with them when serving their sentence.

The visit uncovered that the processing of requests from inmates or remand prisoners to have their children with them in prison had not taken place in accordance with the rules. The NPM therefore recommended that Jyderup Prison issued guidelines for the case processing and ensured that requests from inmates to have children with them be processed in accordance with the rules.

Furthermore, the visit showed that prison staff were focused on the wellbeing of the children, but also that staff found that it could be difficult to assess this aspect and that there was some uncertainty about the staff's duties in relation

to inmates with children. The NPM therefore recommended measures to ensure that staff have the necessary knowledge in this area so that they can support the children in their situation in the best possible way. The NPM also recommended that the prison ensure that children have access to age-appropriate facilities both indoors and outdoors.

### *3.1.3. Minor remanded in solitary confinement*

In Denmark, it is extremely rare that minors are remanded in solitary confinement. However, in 2016, the NPM visited a 15-year-old girl who had been remanded in custody in solitary confinement. The purpose of the visit was to check that the girl was treated with dignity, consideration and in accordance with her rights. The visiting team did not find any conditions that gave the NPM grounds for any further steps.

## **3.2. Paragraph 20 of the list of issues – on prisoners' contact with the outside world**

Paragraphs 162-164 in the Danish Government's report concern the question of access to i.a. visits for remand prisoners and people serving a sentence.

In that connection, the Ombudsman has recently started a general investigation concerning the possibilities for remand prisoners and people serving a sentence to receive visits by relatives in Western Prison ('Vestre Fængsel'). Western Prison is Denmark's largest local prison with over 500 places. The institution also houses people serving a sentence. The investigation started after the Ombudsman received a number of complaints from inmates and relatives that visits are cancelled with very short notice due to overcrowding, and there is a shortage of visitation days, visitation rooms and staff.

Based on the problems with overcrowding and staff shortage in Prison and Probation Service institutions, the NPM has decided that the thematic investigation in 2024 will concern access for remand prisoners and people serving a sentence to visits and occupation etc. during deprivation of liberty.

## **3.3. Paragraph 20 of the list of issues – on solitary confinement**

### *3.3.1. Exclusion from association*

Paragraphs 169-172 in the Danish Government's report concern the use of solitary confinement.

In 2018, the Danish NPM examined the use of exclusion from association (which entails solitary confinement) in the institutions of the Prison and Probation Service.

The NPM found that in general exclusion from association was carried out in accordance with the underlying Danish rules. That was not so, however, in those cases where it had been decided that an inmate in an open state prison who had been excluded from association 'until further notice' should be transferred to a closed state prison or a local prison, and the inmate continued to be excluded from association solely because the open state prison was waiting for a place for the inmate in a closed state prison or a local prison.

In addition, the NPM found that there were documentation problems to a greater or lesser degree in practically all the institutions' reports on exclusion from association. In the majority of the institutions that were visited, the NPM gave one or more recommendations on improvement of documentation and the prison administration following up on the quality thereof.

The Department of Prisons and Probation acknowledged the problems that the NPM had uncovered and informed the NPM that it would emphasise in writing to all members of staff that the rules on this subject must be observed. Moreover, leaflets on the subject of isolation of inmates aimed at members of staff, inmates, defence attorneys and next of kin would be made available at the institutions.

### *3.3.2. Disciplinary cells*

Paragraphs 173-175 in the Danish Government's report concern the use of disciplinary cells.

In 2019, the Danish NPM examined the use of disciplinary cells in the institutions of the Prison and Probation Service. The NPM found that the legal rights of the inmates were not in all cases taken into account when imposing the sanction of disciplinary cell placement. It also found that prevention of psychological damage resulting from placement in a disciplinary cell could be ensured to a greater extent, and that changes of guidelines and practice regarding disciplinary cell placements could be made to good effect. The NPM issued a number of recommendations concerning i.a. that there is in disciplinary hearings an increased focus on the inmate understanding his or her rights, that an interpreter is used to a greater extent during disciplinary hearings, and that guidelines are established on the principles applying to the imposition of disciplinary sanctions. The NPM also recommended improvement of documentation, expanded guidelines on prevention of psychological damage resulting from placement in a disciplinary cell, and that healthcare staff are routinely informed of an inmate's placement in a disciplinary cell.

In response to these recommendations, the Department of Prisons and Probation informed the NPM about a number of initiatives that had already been taken or were in the pipeline, including extended instruction of staff and

the issuing of new guidelines. The NPM was also informed that a committee set up by the Department had recommended i.a. the introduction of new types of disciplinary sanctions which do not include solitary confinement and new rules aiming at reducing the length of placement in disciplinary cells. In 2022, the Danish Parliament passed a bill containing new rules on disciplinary sanctions, largely building on the recommendations made by the committee. The new rules were put into effect in 2023.

### **3.4. Paragraph 20 of the list of issues – on health treatment of inmates**

Paragraph 177 of the Danish Government's report concerns the issue of inmates' access to healthcare treatment. In this connection, the Danish NPM, during his monitoring visits to Prison and Probation Service institutions, always focuses on the inmates' access to healthcare treatment with regard to both somatic and mental disorders.

Based on information received during monitoring visits the Ombudsman has examined i.a. inmates' right to dental treatment in local and state prisons. In 2023, the Ombudsman concluded that it may be doubtful whether inmates in all instances receive the dental treatment to which they are entitled. It was also unclear to which extent the inmates in practice could be seen to by a dentist in order to assess the need for treatment. The Ombudsman therefore recommended that the Department of Prisons and Probation make the relevant rules more clear to the institutions and that the Department in that connection include the requirements for informing the inmates.

### **3.5. Paragraph 22 of the list of issues – on deaths, suicides, qualified suicide attempts, etc. in custody**

Paragraphs 189-193 in the Danish Government's report concern deaths in custody.

The Parliamentary Ombudsman is informed by the authorities of all deaths, suicides and self-harming actions of a more serious nature among inmates in the Danish Prison and Probation Service's institutions and persons in police custody. The Ombudsman receives around 40 reports concerning such incidents per year.

Among other things, the Ombudsman investigates whether the preventive measures in each case have been adequate, whether swift and appropriate action has been taken, and whether the person in question subsequently has been monitored sufficiently and has received sufficient treatment.

Most of the reports do not cause the Ombudsman to take any action. Some cases, however, cause the Ombudsman to ask the authorities questions



about specific circumstances in an individual case or about issues of a more general nature.

Based on the reports, the Ombudsman has found, for instance, that, during a period of just over a year, three inmates in a hospital unit in a local prison had committed suicide by hanging themselves from exposed pipes in their cells. After the Ombudsman had pointed out the pattern, the authorities covered all visible pipes in the cell ceilings in the unit. The Ombudsman found a similar pattern of suicide attempts by using exposed pipes at Ellebæk Centre for Foreigners. Also in this case, the pipes were subsequently covered.

The Ombudsman has also found that inmates in local and state prisons in recent years have used razor blades for suicide attempts on several occasions. In that connection, the Ombudsman has asked the Prison and Probation Service questions about guidelines and procedures relating to the distribution and use of razors. As a result of the Ombudsman's questions, the Prison and Probation Service has stated that rules on the inmates' access to razors in the cells in closed state prisons and local prisons will be drawn up.

### **3.6. Paragraph 24 of the list of issues – on detention of asylum seekers, including unaccompanied children**

#### *3.6.1. Adults*

Paragraph 230 in the Danish Government's report concerns the conditions of detention in centres for foreigners.

In 2016, the NPM visited Return Centre Kærshovedgård to investigate the conditions for rejected asylum seekers at the centre. The NPM found that the location of Kærshovedgård was quite remote and that the possibilities of using public transport were fairly limited. However, the NPM also ascertained that bicycles were placed at the disposal of the residents of Kærshovedgård, and that staff in certain cases drove the residents. The centre gave an impression of a carceral environment, and the NPM expressed concern about the accommodation conditions for rejected asylum seekers, as up to four persons could be placed in a single room of 10-14 m<sup>2</sup>.

After the visit, the Immigration Service informed the NPM that the accommodation conditions for rejected asylum seekers had been changed, so that only two persons were placed in the same room, although a possibility of accommodating three persons in the same room during peak periods had been retained.

The NPM visited Kærshovedgård again in 2017 with an aim to investigate the conditions for those persons at the centre who had been ordered to leave Denmark but who could not be deported (so-called tolerated stay). Apart from

noting again the isolated location of Kærshovedgård, the consequences of which were exacerbated by recently introduced control mechanisms, the NPM also found that the general conditions for persons on tolerated stay were not in contravention of the prohibition against i.a. degrading treatment. That being said, based on universal human and humanitarian considerations, the NPM viewed the conditions for persons on tolerated stay as very burdensome and limiting for basic conduct of life. The NPM therefore called for a more comprehensive assessment of the need to maintain such conditions.

The NPM has also carried out monitoring visits to the Ellebæk Centre for Foreigners. At a monitoring visit in 2019, the NPM found that the corridors and accommodation rooms at Ellebæk were very worn and that the solitary confinement cells were in poor condition. The NPM recommended that the condition of the centre be improved so that the detainees would have adequate material conditions. Recommendations were also made concerning disciplinary hearings, including an increased use of interpreters. Furthermore, the NPM emphasised the need to introduce procedures for screening of new arrivals in order to assess the risk of suicide and to identify victims of torture.

Subsequently, the Department of Prisons and Probation agreed to introduce procedures for screening of new arrivals for certain psychiatric conditions as well as for the risk of suicide.

In 2022, the NPM visited Ellebæk again. The NPM acknowledged that much had been done to improve the material conditions at Ellebæk in recent years. Though the work on the outside areas was not completed, conditions had improved markedly. On the subject of interpreters, the NPM stressed that it is important that they are used in all circumstances when needed. Furthermore, it emerged during the visit that – despite management having focused on the issue – there may have been episodes where staff talked among themselves or to the detainees in an unprofessional or ‘harsh’ way. The NPM therefore recommended a continued focus on the staff’s way of talking.

### *3.6.2. Children*

Paragraph 206 in the Danish Government’s report concerns underage asylum seekers and unaccompanied children in detention.

In 2017, the Danish NPM carried out two unannounced monitoring visits to Return Centre Sjælsmark. The centre accommodated children and their families who were obligated to stay at the return centre, because they were rejected asylum seekers who were not cooperating with the immigration authorities regarding their departure.

The NPM found that the conditions for the children at the return centre could not generally be regarded as being inconsistent with the Convention on the

Rights of the Child, with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or with Article 3 of the European Convention on Human Rights. However, the NPM pointed out some specific conditions in the return centre could be altered for the benefit of the children's wellbeing. This included conditions for eating and recreational activities.

The Danish Government subsequently decided that families with children should no longer be placed at Return Centre Sjælsmark. Instead, these families were to be placed at Return Centre Avnstrup. In this connection, a number of changes were decided concerning i.a. eating conditions and a strengthening of the pedagogical services.

In 2018, the Danish NPM examined the use of force and other interventions in asylum centres for children and in private accommodation facilities for i.a. children and young people with asylum background. Based on the monitoring visits, the NPM found that there was a general awareness of ensuring that the wellbeing of the child or the young person was given primary consideration, also in connection with use of force. The majority of the institutions visited used force to a limited extent.

However, in several institutions, there was inadequate knowledge of the legislation on use of force. On that basis, the NPM recommended that asylum centres for children and accommodation facilities ensure that the staff are familiar with the legislation on use of force, and that guidelines on use of force are in compliance with the legislation. The NPM also recommended that the asylum centres and accommodation facilities ensure that children, young people, parents and personal representatives are informed of their rights in relation to use of force when the children and the young people arrive at the institution.

The Danish Immigration Service has subsequently discussed the NPM's recommendations with the operators of the asylum centres.

### **3.7. Paragraph 25 of the list of issues – on use of forcible measures towards persons admitted to psychiatric institutions**

#### **3.7.1. Adults**

Paragraphs 239-246 in the Danish Government's report concern the use of forcible measures towards persons admitted to psychiatric institutions.

In 2021, the Danish NPM examined the use of various kinds of forcible measures under the Mental Health Act and non-statutory measures towards psychiatric patients. The NPM gave recommendations to some psychiatric wards that aimed to ensure that the rules on use of force are observed in

practice. The recommendations especially concerned the following: ensuring that manual restraints do not last more than 30 minutes, observation of time-related requirements to the medical evaluations of whether forced immobilisation is to be maintained, and change of internal guidelines so they correspond to the rules on when forced immobilisation must stop and instructions to staff in this regard. In addition, the NPM found some examples of records on forced immobilisation that did not contain sufficient documentation of compliance with the rules.

In general, the examination gave the NPM reason to recommend that the regions ensure continued focus on preventing and reducing use of force in the psychiatric sector, that the regions ensure focus on observing the rules on force, and that the regions ensure focus on precise and comprehensive documentation in records on forced immobilisation.

During the monitoring visits to the psychiatric wards, the NPM also examined examples of non-statutory measures towards psychiatric patients that did not have authority in the Mental Health Act, and which can therefore only be implemented with the patient's consent. Among other things, the NPM found that the intervention called 'seclusion in own room' was used in several wards. The intervention is generally characterised by a patient being isolated in his or her own room or another limited area with an unlocked door and possibly with members of staff standing guard outside the door. During six monitoring visits, the NPM recommended that management ensure that no seclusion in own room (or other area restriction) takes place without the patient's consent.

In recent years, the Ombudsman has several times raised cases relating to the health authorities regarding non-statutory measures towards psychiatric patients that do not have authority in the Mental Health Act. The cases have led the Danish Parliament to implement a number of changes to the Mental Health Act, so that it has become more clear which measures can be carried out without the patient's consent.

### *3.7.2. Children*

Paragraphs 247-249 in the Danish Government's report concern underage psychiatric patients.

In 2016, the Danish NPM examined the conditions for children and young people in psychiatric wards. The overall impression was that the children and young people were treated with care and respect and that the psychiatric wards and hospital schools made great, dedicated and valuable efforts to help the children and young people.

The NPM recommended at all monitoring visits that the wards provide information to the parents to the effect that they can refrain from deciding on the use of coercion or force towards their children under the age of 15. Moreover, several places were recommended to have written information about it. The NPM also recommended that the wards maintain or increase their focus on the Mental Health Act provision that a patient can normally only be forcibly immobilised for a short period of time and that forced immobilisation should generally not be used towards patients under the age of 15. On the basis of the monitoring visits, the NPM noted i.a. that, in many instances, no medical assessment was carried out on the continued use of immobilisation when the child or young person was asleep.

The Ministry of Health and Senior Citizens has subsequently specified its guidance on forced immobilisation as regards the medical assessment of children and young people who fall asleep while in belt restraints. In addition, the Ministry has drawn up information material for children and young people in the psychiatric sector and their relatives, including with information that parents can refrain from deciding on the use of coercion or force towards their children under the age of 15.

In 2023, the Danish NPM is once again examining the conditions for children and young people in psychiatric wards. The visits focus on forced immobilisation and use of force, house rules, seclusion in own room, involvement of the children and young people and information given to the custodial parents. In that connection, the NPM will follow up on the recommendations from the monitoring visits in 2016.

#### **4. Other information**

Lastly, the Committee has asked to be provided with any other information relevant to the implementation of the Convention against Torture in Denmark.

The Danish NPM also regularly carries out monitoring visits to residential facilities for people with intellectual and developmental disabilities. The NPM has examined several themes relating to this target group.

Thus, social-psychiatric residential institutions were chosen as a theme for the monitoring visits that the NPM carried out in 2017. The NPM's overall assessment after visiting a number of such institutions was that more should be done in order to improve resident security and safety. In addition, the cooperation in sector transfers between such institutions and the psychiatric wards ought to be improved. The NPM recommended that social-psychiatric residential institutions systematically record incidents involving violence and threats among residents, and that they draw up written guidelines on how to

handle such incidents and analyse data for the purpose of prevention. Furthermore, the NPM recommended that cooperation agreements be made between social-psychiatric residential institutions/the municipality and the psychiatric treatment sector/the region about admissions, hospital stays and discharges for residents in the institutions.

Subsequently, the Ministry of Health and the Ministry of Social Affairs pointed to a number of government initiatives with a bearing on these issues. These initiatives included the creation of 150 special places within the psychiatric treatment sector specifically aimed at a small group of particularly vulnerable patients with severe mental disorders and externalising behaviour, who previously have been hospitalised repeatedly and often also have an addiction. Many of these patients live in social-psychiatric residential institutions.

In 2020, the theme selected for monitoring visits was the conditions in social residential facilities for convicted persons with intellectual and developmental disabilities.

The NPM recommended that social residential facilities and the responsible ministries strengthened general and individual crime prevention measures in relation to convicted persons with intellectual and developmental disabilities, as the risk of convicted persons committing further offences can affect how long a preventive measure sentence should remain in force. Furthermore, the visits by the NPM showed that there was a risk of convicted persons being unlawfully restricted in, for instance, their access to the internet or in leaving the social residential facility when the facilities did not ensure that staff knew the special provisions in that field or when the provisions or the interpretation of the rules were unclear. In certain institutions, the NPM had seen examples of convicted persons being or having been unlawfully under 24-hour watch. Lastly, the NPM pointed out that statistical data were lacking in this field. There was for instance no knowledge of the number of current preventive measures sentences or developments in the duration of the sentences.

In this connection, the Ministry of Social Affairs and Senior Citizens stated i.a. that the National Board of Social Services would adjust and clarify its handbook regarding crime prevention measures and the municipalities' obligations towards convicted persons with intellectual and developmental disabilities, and inform the municipalities and the residential institutions accordingly. The Ministry of Justice stated i.a. that the Ministry would prepare new rules regarding leave for convicted persons with intellectual and developmental disabilities and improve the statistical information on the target group.