Artikelnr. 5197

POLITI

Actioncard om visitation af frihedsberøvede

1. Formål	At sikre at visitationer i forbindelse med anbringelse i detention eller venterum foretages med korrekt hjemmel og efter proportionalitets- og nødvendigheds-princippet.
2. Regelsæt	Når en frihedsberøvet indbringes til et af kredsens anbringelsessteder med henblik på indsættelse i detention eller venterum, skal pågældende fremstilles for den vagthavende. Inden indsættelse i detention eller venterum skal den frihedsberøvede sikkerhedsvisiteres, jf. detentionsanbringelsesbekendtgørelsen § 10 ved detentionsanbringelse, og efter en analogi af samme ved anbringelse i venterum. Den frihedsberøvede skal fratages penge og værdigenstande samt i øvrigt genstande, der kan benyttes til at forvolde skade på den pågældende selv, på andre personer eller på ting. Hvis den pågældende er anholdt efter reglerne i retsplejeloven på grund af en mistanke om et strafbart forhold, kan der ske sikkerhedsvisitation efter reglerne i retsplejelovens § 758, stk. 1., 2. pkt. Visitation jf. ovenstående foretages som altovervejende udgangspunkt uden afklædning.
3. Særlige tilfælde	I særlige tilfælde kan en sikkerhedsvisitation tilsige afklædning af den frihedsberøvede. I sådanne tilfælde træffer vagthavende afgørelse om, at der skal foretages visitation med afklædning. En sådan visitation, der kan krænke blufærdigheden, må kun foretages af personer af samme køn, som den frihedsberøvede, jf. detentionsanbringelsesbekendtgørelsen § 10 stk. 3.

4. Fremgangsmåde	Ved ankomst til anbringelsesstedet fremstilles den frihedsberøvede for vagthavende og sikkerhedsvisiteres uden afklædning. Derefter vurderes følgende: 1. Er der konkrete grunde til at antage, at man ved afklædning kan udfinde genstande, som er til fare for frihedsberøvede eller andre? a. Hvis nej: Der må ikke foretages yderligere sikkerhedsvisitation. b. Hvis ja: Vagthavende kan beslutte, at der skal ske visitation med afklædning. 2. Er frihedsberøvede sigtet for et strafbart forhold, og er der rimelig grund til at mistænke, at pågældende er i besiddelse af effekter, der er af væsentlig betydning for efterforskningen? a. Hvis nej: Der må ikke foretages bevisvisitation. b. Hvis ja: Straffesagens sagsbehandler kan beslutte, at der skal ske visitation jf. retsplejelovens § 792 a, under hensyntagen til proportionalitetsprincippet.
5. Dokumentation	**Sikkerhedsvisitation** En sikkerhedsvisitation efter bestemmelserne i retsplejeloven, detentionsanbringelsesbekendtgørelsen, eller en analog anvendelse af samme, anføres i Polsas som anholdelsesdisposition (”VI”). I de særlige tilfælde, hvor afklædning har fundet sted, skal der – foruden anholdelsesdisposition – oprettes en almindelig disposition (kode 0030 i dispositionsbilledet) med en beskrivelse af, hvilken konkret grund, der gav anledning til visitationen, samt at der var tale om en sikkerhedsvisitation. **Bevisvisitation** En bevisvisitation efter bestemmelserne i retsplejeloven skrives ind i rapportmaterialet på straffesagen med tilhørende beskrivelse af mistankegrundlaget. Der oprettes ligeledes en anholdelsesdisposition (”VI”) i Polsas. Hvis bevisvisitationen har tilsagt afklædning af den frihedsberøvede, skal der – foruden anholdelsesdisposition – oprettes en almindelig disposition (kode 0030 i dispositionsbilledet) med en beskrivelse af, hvilken konkret grund, der gav anledning til visitationen, samt at den er foretaget med hjemmel i retsplejeloven (RPL).

6. Ansvar	**Sikkerhedsvisitation** Den vagthavende har ansvaret for, at sikkerhedsvisitation af den frihedsberøvede er nødvendig, proportionel og med gyldig hjemmel. Vagthavende er ligeledes ansvarlig for, at dispositionen opdateres korrekt i Polsas. **Bevisvisitation** Den sagsbehandlende patrulje har ansvaret for, at en eventuel bevisvisitation af den frihedsberøvede er nødvendig, proportionel og med gyldig hjemmel. Patruljen har ligeledes ansvaret for, at visitationen påføres rapportmaterialet med tilhørende beskrivelse af mistankegrundlaget. Den vagthavende påfører korrekte dispositioner i Polsas på vegne af patruljen. Den vagthavende vil som ledelsesmæssig ansvarlig kunne træffe den endelige beslutning i tilfælde af tvivl eller uenigheder.

STAMOPLYSNINGER:

Klassifikation:	Uklassificeret
Titel:	**Actioncard om visitation af frihedsberøvede**
Kaldenavn:	
Udstedt af:	Københavns Politi
Med virkning for:	Københavns Politi
Dokumentrelation: (Hjemmel)	Retsplejeloven § 758 og § 792 Detentionsanbringelsesbekendtgørelsen (bekendtgørelse nr. 988 af 6. oktober 2004 med senere ændringer)
Resume:	Beskriver retningslinjer ved visitationer af frihedsberøvede i forbindelse med anbringelse i detention eller venterum.

Artikelnr. 5197

POLITI

Dokumentejer:	Center for alment beredskab, Beredskabsafdeling Syd
Træder i kraft:	03.07.2024 kl. 07:00
Underskriftsdato:	01.07.2024
Journalnummer:	WZ: 2024-096953
Ophæver:	
Relaterede dokumenter:	Angiv hvilke dokumenter, der relaterer sig til actioncardet. Indsæt links: • Kundgørelse II, nr. 55 , Om anbringelse af berusede personer i politiets detentioner • https://prodsp2019polintra.politinet.net/politifagligt/politiopgaver/frihedsberoevelse/FaellesDokumenter/Detentionsanbringelse%20af%20berusede/Anbringelse%20af%20berusede%20personer%20i%20politiets%20detentioner.pdf

Intersex Danmark
Gl Kirkevej 2b
8550 Ryomgård
Denmark

ATT: Committee on Civil and Political Rights.

NGO submission by Intersex Danmark for the List of Issues for the session on Denmark by the Committee on Civil and Political Rights.

24th April 2025.

Intersex Danmark would hereby like to draw the Committee's attention to the situation of intersex people in Denmark, and suggest to add questions to the list of issues, that address the human rights violations intersex people still face in Denmark.

Yours Sincerely
Inge Toft Thapprakhon
(Spokesperson of Intersex Danmark)

The issue of how intersex people are treated in Denmark has been risen in connection with periodic reports on Denmark:
In [1]2016 where recommendations were given to Denmark, in the concluding observations, after the sixth and seventh combined periodic report by the Committee Against Torture.
In [2]2017 the concluding observations on the fifth periodic report on Denmark, by the Committee on the Convention on the Rights of the Child, where similar recommendations were put forth.
In [3]2019 the Committee on Economic, Social and Cultural Rights in their 6th periodic rapport on Denmark also gave recommendations to Denmark on the issue.
In [4]2023 the Committee Against Torture, in their 8th periodic rapport on Denmark once again gave recommendations to Denmark regarding the treatment of intersex people.

In addition to these specific recommendations to Denmark, several international human rights authorities, including the United Nations, Council of Europe (COE), and The European Union has since 2015, called on all nations to either "repeal laws" that permit these procedures or "take measures" to prohibit gender-normalizing treatments that are not necessary for the physical health of the child, without the child's free and informed consent, yet the necessary measures to prevent these procedures, have not yet been taken in Denmark.

Regrettably, the Danish Government has chosen to take steps in the opposite direction.
In 2018 Denmark launched their first LGBTI action plan: "[5]Handlingsplan til fremme af tryghed,trivsel og lige muligheder for LGBTI- Personer" which included intersex people, and intersex issues, but when they in

[1] Link : CAT/C/DNK/CO/6-7: Concluding observations on the combined sixth and seventh periodic reports of Denmark | OHCHR
[2] Link: CRC/C/DNK/CO/5: Committee on the Rights of the Child: Concluding observations on the fifth periodic report of Denmark | OHCHR
[3] Link : Select a language for E/C.12/DNK/CO/6
[4] Link : CAT/C/DNK/CO/8: Concluding observations on the eighth periodic report of Denmark | OHCHR
[5] Link: Handlingsplan til fremme af tryghed, trivsel og lige muligheder for LGBTI-personer - Regeringen.dk

2022 launched the 2nd action plan "[6]Plads til forskellighed I fællesskabet" the I for intersex had been removed from the acronym, in the action plan, as well as in all political context, and all intersex specific topics, had been removed from the action plan.
Intersex people experienced this as a sign of political sanctioning of the discrimination and othering intersex people are victims of, lead to many feeling re- invisibilized, re- traumatized, violated by this action.

The removal of the I from the acronym was addressed by Organization Intersex International (OII) in a [7]press release where they state that "This removal constitutes a grave backsliding in the rights of intersex people, and actively contributes to their invisibilisation."

In October 2024, Intersex Denmark send a joint statement to the Minister of Equality, requesting to put the I for intersex back in the acronym, in political context, and for the Danish Government to start working on a holistic and Human Rights based legislation securing the rights of intersex people.
The letter was cosigned by 12 other Danish LGBTQIA+ organizations, and was supported by OII Europe and Ilga Europe.
The Minister of Equality rejected our request.

Despite what had preceded, the Danish Government in 2023 went on to sign the [8]54th Human Rights Council, General Debate Item 8: Follow-up and implementation of the Vienna Declaration and Program of Action. Joint statement and finally went on to sign document [9]A/HRC/RES/55/14 Combating discrimination, violence and harmful practices against intersex persons, Adopted on 4th. April 2024.

In May 2017 Amnesty International launched the Report **"[10]First Do no harm, ensuring the rights of children with variations in sex characteristics in Denmark and Germany".**
Amnesty International's report documented how the treatment of individuals with variations of sex characteristics in Denmark violates international human rights law, in particular, the rights of the child. These practices violate the rights to the highest attainable standard of health, to a private life and to physical and bodily integrity, and the right to freedom from discrimination, and the elimination of practices based on gender stereotypes.

In 2017 the report: "[11]Children's rights in Biomedicine: Challenges posed by scientific advances and uncertainties", was launched.
The report was Commissioned by the Committee on Bioethics for the Council of Europe.
The report addresses the issues of the lacking evidence regarding safety and long-term benefits for the child, as well as the lack of medical necessity of the surgeries performed on intersex children.

Recent UN body recommendations to Denmark:

In 2016 The Committee Against Torture in its concluding observations on the combined sixth and seventh periodic reports of Denmark, stated that:

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[6] Link: Plads til forskellighed i fællesskabet

[7] Link: Worrying attacks on intersex rights in Denmark – OII Europe

[8] Link: General Debate Item 8: Follow-up and implementation of the Vienna Declaration and Programme of Action - Finland abroad: Permanent Mission of Finland, Geneva

[9] Link: g2404806.pdf

[10] First Do No Harm, Amnesty International, 2017
Link: FIRST, DO NO HARM. ENSURING THE RIGHTS OF CHILDREN WITH VARIATIONS OF SEX CHARACTERISTICS IN DENMARK AND GERMANY

[11] The Rights of Children in Biomedicine (2017)
Pages 40 - 45
Link: 16806d8e2f

42. *"While taking note of the information provided by the delegation on the decision-making process related to treatment of intersex children, the Committee remains concerned at reports of unnecessary and irreversible surgery and other medical treatment with lifelong consequences to which intersex children have been subjected before the age of 15, when their informed consent is required. The Committee is further concerned at hurdles faced by these persons when seeking redress and compensation in such case"* and called upon Denmark to :

(a) Take the necessary legislative, administrative and other measures to guarantee the respect for the physical integrity and autonomy of intersex persons and ensure that no one is subjected during infancy or childhood to unnecessary medical or surgical procedures;

(b) Guarantee counselling services for all intersex children and their parents, so as to inform them of the consequences of unnecessary surgery and other medical treatment;

(c) Ensure that full, free and informed consent is respected in connection with medical and surgical treatments for intersex persons and that non-urgent, irreversible medical interventions are postponed until a child is sufficiently mature to participate in decision-making and give full, free and informed consent;

(d) Provide adequate redress for the physical and psychological suffering caused by such practices to intersex persons.[12]

In 2017, The Committee on the Rights of the Child, in the concluding observations, on the fifth periodic report on Denmark, again address the ongoing normalizing surgeries on intersex children:

24. " In view of ongoing surgical interventions on intersex children, the Committee recommends that the State party:

(a) Ensure that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination for the children concerned and provide families with intersex children with adequate counselling and support;

(b) Develop and implement a child rights-based health-care protocol for intersex children, setting out the procedures and steps to be followed by health teams;

(c) Undertake investigation of incidents of surgical and other medical treatment of intersex children without informed consent and adopt legal provisions in order to provide redress to the child victims of such treatment, including adequate compensation

(d) Educate and train medical and psychological professionals on the range of sexual and related biological and physical diversity and on the consequences of unnecessary surgical and other medical interventions for intersex children."[13]

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[12] CAT/C/DNK/CO/6-7, Committee against Torture Concluding observations on the combined sixth and seventh periodic reports of Denmark, February 4th 2016,
Link:: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FDNK%2FCO%2F6-7&Lang=en

[13] CRC/C/DNK/CO/5, Committee on the Rights of the Child, Concluding observations on the fifth periodic report of Denmark, October 26th 2017
Link:
http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgIK9tmnWXdxaU%2fedXEEMqJrk8yrwetruHAHlCuvk7llb6C66JpZees7wvtcoJhlEgwEf7VfhCW5afo%2b60Ay5phC4Cg9ZPD46%2f3NL1yVPqT3

In 2019, The Committee on Economic, Social and Cultural Rights in their 6th periodic rapport on Denmark once again addressed the topic of non-consensual, unnecessary surgeries carried out on intersex infants and minors, before they were able to give their full, free and informed consent to the procedures, often referred to as normalizing surgeries or intersex Genital Mutilation (IGM)

64. The Committee is concerned that the definition of "disorders (differences) of sex development" in the State party's legislation does not contain all elements of the definition of "intersex". It is also concerned at reports that medically unnecessary procedures continue to be performed on intersex children (arts. 10 and 12).

The Committee recommends that, in the implementation of the 2018–2021 National Action Plan on lesbian, gay, bisexual, transgender and intersex persons, the State party:

(a) Replace in its legislation the concept of "disorders (differences) of sex development" with a definition of intersex person in which differences in sex characteristics include genitals, gonads and chromosome patterns;

(b) Ensure that, in practice, medically unnecessary procedures on the sex characteristics of intersex children are not performed until the children are capable of forming their own views and can give their informed consent;

(c) Train health-care personnel on the health needs and human rights of intersex persons, including their right to autonomy and physical integrity;

(d) Ensure that, in addition to the information material for parents of intersex children to be published by the Danish Health Authority, intersex persons and their families receive adequate counselling and support, including from peers;

(e) Identify and investigate human rights violations against intersex persons in the context of the examination of the living conditions of intersex persons to be conducted in 2020;

(f) Ensure that intersex persons and organizations continue to be consulted and participate in the development of research, legislation and policies that impact on their rights[14]

In 2023 The Committee Against Torture in their concluding observations in the 8th periodic rapport on Denmark stated the following:

32.The Committee is concerned over reports that unnecessary and irreversible surgery and other medical treatments are performed on intersex children without their informed consent and that intersex adults in need of gender-affirming care who disagree with their assigned gender at birth experience discrimination in treatment when compared with intersex persons who access medical care based on their originally assigned gender (arts. 2, 11–14 and 16).

[14]**E/C.12/DNK/CO/6** the Committee on Economic, Social and Cultural Rights in their 6th periodic rapport on Denmark on November 12th 2019, **Link:** Select a language for E/C.12/DNK/CO/6

The State party should ensure that its legislation, which prohibits irreversible surgical operations that are performed on intersex children for cosmetic reasons, is adequately enforced and should conduct studies into this matter in order to better understand and approach it.

The parents or guardians of intersex children should receive impartial counselling services, psychological and social support and information, including information on the possibility of deferring any decision on treatment until it can be carried out with the full, free and informed consent of the person s concerned.

All persons who experience severe pain and suffering as a result of unnecessary medical procedures conducted without their consent should have access to effective remedies.

The State party should also ensure that all intersex persons receive the same level of specialized care, regardless of their conformity with the gender they were assigned at birth or place of residence.[15]

Current situation on Denmark:

On August 14th 2024, during Copenhagen Pride, our then Minister of Gender Equality, Mrs. Marie Bjerre, posted an [16]opinion piece in the Danish newspaper Jyllandsposten.
In her piece the Minister present intersex people and gender diverse persons, as posing a threat to the achievement of gender equality in the Denmark, and presupposing that safeguarding the rights of these groups, comes on the expense of others, especially [17]endosex cis women, thereby validating and supporting further marginalization, exclusion, and exposure to hate both in- person and online, while masquerading as "Protecting Gender Equality"
She furthermore stated that "There are only two biological sexes" thereby spreading serious [18]misinformation, that impacted, and had real-life consequences for intersex people in Denmark.
Mrs. Bjerre with her opinion piece, actively contributed to fueling intolerance and discrimination towards intersex and gender diverse persons in Denmark.
The Danish Government never launched an official statement distancing itself from Marie Bjerre's statements. and no official apology was made for her attack on Intersex and gender diverse people's rights.
Marie Bjerre was appointed (promoted to) Minister for European Affairs, on August 29th 2024.
On September 10th, 2024, OII Europe send out a [19]press release addressing the situation as a worrying attack against intersex Rights.
(ICCPR Article 17)

In October of 2024 Intersex Danmark send a request for an account of, what the Ministries of Health and Gender Equality have done, to ensure an independent and in-depth investigation into

[15] CRC/C/DNK/CO/5 The Committee on the Rights of the Child, in their 5th periodic rapport on Denmark on 26th October 2023
Link: CRC/C/DNK/CO/5: Committee on the Rights of the Child: Concluding observations on the fifth periodic report of Denmark | OHCHR
[16] Link: Ibi-Pippi har fået mine øjne op for, hvor problematisk juridisk kønsskifte er - Jyllands-Posten (Danish)
[17] *People who are not born intersex.
[18] Link: Opening remarks by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights at the Expert meeting on ending human rights violations against intersex persons | OHCHR
Para 6
[19] Link: Worrying attacks on intersex rights in Denmark – OII Europe

the repeated indications of violations of intersex human rights in medical settings, which are categorized by the UN as [20]harmful practices, [21]ill-treatment and torture, and by the [22]EU is equated to female genital mutilation (FGM). And referring to the fact that, HRC in 2023 stated that:

[23]*"There can be no effective torture prevention if the same authorities against whom allegations are being made are themselves investigating their peers, subordinates or superiors"*

On Dec 6th 2024 we received a reply by both the Minister of Equality and the Minister of Health stating the Ministries have found no reason to initiate an independent study of the area.

(ICCPR article 2.2 & 3.(a)

(CCPR/C/GC/35, GC 9, para 9 Link: Select a language for CCPR/C/GC/35)

Despite continuous international condemnation, and the fact that non-consensual genital surgeries on intersex children have been classified as ill treatment and torture by the United Nations, physicians in Denmark continue to perform sex normalizing" surgeries on intersex children, surgeries also known as intersex genital mutilation (IGM).

(ICCPR article 24.1 article 3 and article 7)

The National Board of Health claims that less than a handful of so-called "normalizing surgeries" take place in Denmark every year, however that number by no means reflect the actual number.
Around 200 Hypospadias repairs take place in Denmark every year, most of which are carried out on children under the age of 2. However, the numbers of Hypospadias repairs and Gonadectomies, are not reported to the UN during questioning, as the Danish health care system, use the definition Disorders (Differences) in Sex Development (DSD), a term without a clear definition, allowing the Danish medical establishment, to omit counting Hypospadias and undescended testicles as DSDs, and thereby avoiding being held accountable for those 200+ surgeries.

(ICCPR article 9 & 26)

The use of the term DSD as a synonym for intersex was addressed by[24] CESCR in the 6th periodic report on Denmark, as it was stated, that these two terms, do not fully cover the same segment, and recommendations were made to Denmark, to replace the term DSD, with the term intersex in legislation.

Medical staff in Denmark commonly use highly [25]pathologizing language, referring to intersex children as males and females, with a disorder, chromosomal defects, or deformities, when they remit their treatment

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[20] **CEDAW/C/GC/31-CRC/C/GC/18 CEDAW og CRC on harmful practice**
Para 15
Link: Select a language for CEDAW/C/GC/31/CRC/C/GC/18

[21] **A/HRC/29/23 Human Rights Council Twenty-ninth session, Discrimination and violence against individuals based on their sexual orientation and gender identity Report of the Office of the United Nations High Commissioner for Human Rights**
Para 38
Link: Select a language for A/HRC/29/23

[22] **Promoting gender equality in mental health and clinical research**
Paras BB, BC &61
Link: Texts adopted - Promoting gender equality in mental health and clinical research - Tuesday, 14 February 2017

[23] **A/HRC/52/30 Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture (2023)**
Para 63
Link: A/HRC/52/30: Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture | OHCHR

[24] CESCR: **E/C.12/DNK/CO/6 para 64**
Link : https://undocs.org/E/C.12/DNK/CO/6

[25] **EU Parliament resolution P8_TA-PROV(2019)0128 "The rights of intersex people**
Para 7
Link : https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128_EN.html

proposals often tainted by medicalized views of what is [26]best for the child.

[27]Doctors rely on the parents' ability to consent to surgeries and treatments, and are claiming to obtain full, free and informed consent, however the consents given, are based on highly medicalized information, and pathologizing material distributed to parents, which does not inform about alternatives, and potential negative consequences of these procedures, just as the fact, that these surgeries are often neither necessary nor beneficial to the child, and may cause irreversible damage, and the fact that they are, categorized as harmful practice, ill-treatment and torture, is not disclosed to the parents.
(ICCPR article 7)
(ICESCR article 12)
(CESCR General Comment 22 (E/C.12/GC/22), 2016, at paras 18-19.)

Intersex adults, who are able to give their full, free and informed consent, to treatment or surgery, [28]that they may need in order to align their bodies to their gender identity, are faced with massive hurdles, if their gender identity does not match the sex they were assigned at birth. Adult intersex people are divided into 2 groups in the Danish treatment system:

- Grp 1: Adult intersex people who agree with the sex assigned at birth:
  This group has immediate access to hormone treatment, and surgeries, provided by teams specialized in intersex healthcare, and their treatment is covered by a treatment guarantee.

- Grp 2: Adult intersex people who disagree with the sex they were assigned at birth,
  This group is considered, to be transgender, and therefore must undergo evaluations and examinations, by teams specialized in transgender treatment, often without intersex specialization when seeking access to hormone treatments and surgeries, to align their body with their gender identity. As their treatment is considered transgender treatment, it is no longer covered by the treatment guarantee.

A Danish survey from 2021, concluded the following " [29]The interviewees, who identify with a sex other than the sex assigned to them at birth, have experienced a number of challenges with their treatment because it targets the sex assigned at birth. They report that they feel pressured into a role as transgender, and have received treatment in the psychiatric system due to the psychological consequences of this situation"
This act of discrimination, is creating an [30]often unnoticed double [31]discrimination, within the health care system.
(ICCPR at articles 1.1, 1.3, 2(3a) and 26)

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[26] **CRC/C/GC/13 , Para 61**
Link: United Nations (ohchr.org)
[27] **Sexual health, Human Rights and the law,**
Page 26, Para 9.
Link: 9789241564984_eng.pdf (who.int)
[28] **End violence and harmful medical practices on intersex children and adults, UN and regional experts urge, Para 7.**
Link: Intersex Awareness Day – Wednesday 26 October | OHCHR
[29] **Interkøn – en kvalitativ undersøgelse af erfaringer med variationer i kønskarakteristika. Page 24 para 6-7** (Danish)
Link: Interkøn - En kvalitativ undersøgelse af erfaringer med variationer i kønskarakteristika (bm.dk)
[30] **Sexual health, Human Rights and the law, Page 26 para 11**
Link: 9789241564984_eng.pdf (who.int)
[31] **"WHO, UNAIDS, UNHCR, UNICEF, World Food Programme, United Nations Development Programme, UNFPA, UN Women, ILO, OHCHR and IOM, "Joint United Nations Statement on Ending Discrimination in Health Care Settings**
Link: Joint United Nations statement on ending discrimination in health care settings

[32]OHCHR also addressed the topic of intersex people in transgender healthcare in their Background Note on Human Rights Violations against Intersex People, where they points to the fact that:
"Health services designed to meet the needs of adults who identify as LGBT, or transgender children do not, by virtue of that fact, have capacity or skills to manage the healthcare of infants, children, adolescents or adults with intersex variations and their families."

The statutes of limitation 5/10 years in place in Denmark, actively stands in the way of intersex peoples access to seek adequate reparation and redress.
(ICCPR at articles 26 and 2(3a))

In 2021 the report [33]"Interkøn – En kvalitativ undersøgelse af erfaringer med variationer i kønskarakteristika." was launched**.**
It was a common experience among the interviewees, that there was a lack of knowledge about variations in sex characteristics in the health service. Almost all of them had experienced encounters with healthcare professionals who did not know or have sufficient knowledge of variations in sex characteristics.
Many have been uncomfortable being treated by health care professionals who do not have sufficient knowledge. This has given rise to consideration about whether they are getting the right treatment.
Although some of the interviewees have had years of experience with the healthcare system, some of them believe that the level of knowledge has not improved over time.
(ICCPR article 7)

Intersex Danmark files this submission, to inform the List of Issues for Denmark, for the ICCPR session.

We respectfully request that the Committee consider the following inquiries:

(A) Please provide information on why the Danish Government has chosen to remove the I for intersex from the acronym in all political context, and all intersex specific topics from the current LGBT+ Action plan.

(B) Please provide information on what steps, if any, are being taken by government bodies to undertake investigation of incidents of surgical and other medical treatment of intersex children without their informed consent.

(C) Please provide information on what steps, if any, are being taken by the government bodies to ensure that necessary legislative, administrative and other measures are in place to guarantee the respect for the physical integrity and autonomy of intersex persons, and ensure that no one is subjected to unnecessary medical or surgical procedures during infancy or childhood;

(D) Please provide information on what steps, if any, are being taken by the government bodies to ensure the individuals full and free consent is provided in all cases where surgical interventions on an intersex

[32] **Background Note on Human Rights Violations against Intersex People Page 29 Para 3**
Link: **BackgroundNoteHumanRightsViolationsagainstIntersexPeople.pdf (ohchr.org)**
[33] **Interkøn – en kvalitativ undersøgelse af erfaringer med variationer i kønskarakteristika** Page 25 Para 4-6 (Danish)
Link: Interkøn - En kvalitativ undersøgelse af erfaringer med variationer i kønskarakteristika

individual is considered;

(E) Please provide information on what steps, if any, are being taken to ensure that intersex individuals who do not identify with the legal sex they were assigned at birth, are not mistakenly classified as transgender, if they disagree with they seek treatment, incl. Hormone replacement therapy and surgeries in line with their gender identity;

(F) Please provide information on what steps, if any, are being taken to ensure that intersex individuals, who do not agree with the sex they were assigned at birth have access to medical and/or surgical treatment aligned with their gender identity, equally to intersex individuals who agree with the sex assigned at birth, and non-dependent on a transgender diagnosis;

(G) Please provide information on what steps, if any, are being taken to ensure adequate redress for the physical and psychological suffering caused, is being provided in an accessible manner to intersex persons;

(H) Please provide information on what steps, if any, are being taken to educate and train medical and psychological professionals on the range of sexual and related biological and physical diversity and on the consequences of unnecessary surgical and other medical interventions for intersex children;

(I) Please provide information on what steps, if any, are being taken to inform parents of intersex children of the consequences of unnecessary surgery and other medical treatment, and on the fact that these surgeries are categorized by the UN as harmful practices, ill-treatment and torture, and by the EU is equated to female genital mutilation.

Appendix:

A. Who are intersex individuals:

The term “intersex” refers to variations in a person’s sex chromosomes, sexual or reproductive anatomy such that their body does not fit typical definitions of male or female. This may become apparent in utero, at birth or later in life and includes 40+ variations among others: Androgen Insensitivity Syndrome (AIS), Virilizing Congenital Adrenal Hyperplasia (CAH), Klinefelter’s Syndrome, Turner Syndrome, Hypospadias, Bladder exstrophy, and others. An estimate frequency of intersex births, is accepted by the United Nations and Council of Europe as 1,7%

B. Who are Intersex Danmark:

Intersex Danmark is an independent human rights NGO in Denmark, that works for the human rights of all intersex people regardless of variation. Intersex Danmark is a member of Organisation Intersex International, Europe (OII, Europe) and works together with other NGO’s, nationally and internationally.

Department for the Execution of Judgments of the European Court of Human Rights
Directorate General Human Rights and Rule of Law, Council of Europe
67075 Strasbourg Cedex
France

Copenhagen, 25 February 2025

COMMUNICATION
Concerning Denmark's consolidated Action Plan of 14 October 2024 in the case of
AGGERHOLM v. DENMARK (Application No. 45439/18)

DIGNITY – Danish Institute Against Torture, Better Psychiatry and the Danish Institute for Human Rights would like to address the Department of Execution of Judgments of the European Court of Human Rights (ECtHR) in response to Denmark's Action Plan of 14 October 2024 on the implementation of the ECtHR's judgment of 15 September 2020 in the case of *Aggerholm v. Denmark* that related to the use of belt restraints for 22 hours and 50 minutes back in 2013.[1] Our communication relates to general measures that have been taken or are envisaged to prevent recurrence of violence of similar nature as in the case of *Aggerholm*, as well as to procedural issues regarding triggering the case up to the enhanced procedure.

We welcome the various initiatives adopted over the last years, including the 10-year plan to improve the psychiatric and mental health field (September 2022) with the overall aim to reduce coercive measures by 30% by 2030[2], legislative amendments and new regulations, new funding and a monitoring model. We also note the Government's recognition of the challenges to reach the goals and that "the reduction in coercive measures is yet to be seen in practice".[3]

We maintain the view that the use of coercive measures in psychiatric institutions in Denmark, including belt restraints, remains widespread in Denmark, and that the general measures adopted will not be sufficient to address the root causes of the problem and thus prevent similar cases in the future. The unfortunate reality remains that the case of *Aggerholm* is illustrative of a structural problem that has still not been addressed.[4]

Moreover, we are concerned about the latest initiatives by the Health Authorities (Annex 5[5]) because, if implemented, it may result in certain forms of coercion being substituted by others, rather than reducing the overall use of coercion in psychiatric institutions. A research report confirms our concern and states that the consequences should carefully be considered before allowing alternative forms of coercion, as this could potentially increase the overall level of coercion and worsen conditions for patients, family members, and staff. (Annex 4[6]).

[1] See also our previous communications of 17 March 2022, 10 July 2022 and 28 September 2023.
[2] The Government will shortly begin the negotiations of the last steps of the 10-year plan.
[3] See Action Plan of 14 October 2024, p. 5.
[4] See also the latest report and policy paper by the Danish Institute for Human Rights, Annex 2 and 3.
[5] Reduction of the most intensive forms of coercion: The Health Authority's assessment, January 2025, Annex 5.
[6] Research Report on Graduated Use of Coercion in Psychiatry, January 2025, p. 7, Annex 4.

General measures

This section will address: the statistics (1); the general measures taken which are insufficient to fully implement the case of *Aggerholm* and to address the root causes of the structural problem (2); and our recommendation to focus on the necessary preventive measures (3).

1) Statistics on the use of coercion, including belt restraints

The Action Plan referred to the latest statistics (regarding year 2023) according to which the use of coercive measures continues to be frequent.[7] Thus, the various initiatives have not yet had any significant or measurable effect on the use of coercion in psychiatric institutions, and the number of adults subjected to coercion is basically unchanged over the last ten years.[8] This is acknowledged in the Action Plan that noted that the use of restraints and forced medication increased along with the decrease in belt restraints. It is important to note that when focusing on the use of coercion (and not on the number of persons subjected to coercion) the total use is generally increasing, and psychiatric patients are, on average, subjected to coercion more often today than 10 years ago.[9]

Specifically with regards to belt restrains, it is important to note that despite significant reduction over the last years, the number of belt restraints lasting from 24-48 hours and more than 48 hours continues to be high in our view.[10] Furthermore, the differences across regions indicate various practices. By way of example, in 2023, in the region of Zealand some 28% of the total number of belt restraints exceeded 24 hours whereas in the two regions of North- and Central Jutland only some 10% of belt restraints in each region exceeded 24 hours.[11]

2) The necessary general measures have not been taken

We continue to disagree with the Government that stated in the recent Action Plan that the necessary general measures have been taken to implement the case of *Aggerholm*.

As illustrated by the Medical Association that conducted a member survey among doctors working in psychiatric institutions. It showed that, over the last two years, only 8 percent of respondents had experienced a positive improvement in their conditions for providing good psychiatric care to some or to a large extent.[12] Some 87 % felt that the capacity for providing quick assessment and treatment of psychiatric patients in need was insufficient.[13]

[7] Action Plan p. 3; Sundhedsstyrelsen, Monitorering af tvang i psykiatrien, 1. januar – 31. december 2023, 14. maj 2024.
[8] Ib, p. 6. See also Annex 1.
[9] Danish Institute for Human Rights, Unnecessary Coercion in Psychiatry – when coercion replace treatment, care and nursing, January 2025, p. 20.
[10] See eSundhed, "Reducing Coercion in Psychiatry," [online], available at: Nedbringelse af tvang i psykiatrien (2014 - 2023)
[11] Sundhedsstyrelsen, ib. 7, p. 8, figure 10.
[12] Annex 1.
[13] Ib.

Moreover, a recent research report[14], which was requested by the Health Authority, recommends focusing on reducing all forms of coercion and promoting the use of alternative interventions for managing potentially violent and aggressive behavior among patients. This should be done through e.g., investment in staff training, robust implementation, and quality assurance. By way of example, the report recommends academic upgrading of nursing professional, specializations and continuing education to reflect existing knowledge - all with a clear focus on prevention and alternative interventions. High quality could be ensured for example if education was structured with clear didactic elements, and evaluation at the master's level. Moreover, annual inspection should be conducted in all institutions using coercion. This should serve not only as external oversight of – and control with - coercion used but would also serve as an advisory and guiding function to ensure quality at a high professional level and promote the reduction of coercion.

Moreover, also from international committees, Denmark continues to receive criticism for the widespread use of coercion. Most recently, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that - while acknowledging the various initiatives - recommended that a reduction in recourse to belt restraints should "obviously" not be substituted by an increased use of other, similarly or even more intrusive/coercive means of restraint.[15] In relation to the psychiatric institutions visited in 2024, the Committee highlighted several challenges and strongly encouraged the continued pursuit of the efforts to reduce the length and the frequency of fixation and other forms of restraint.[16]

With regards to the Danish courts, the Government highlighted in the Action Plan six cases to illustrate that ECHR Article 3 is addressed during adjudication of the legality of belt restraints. While this is welcomed, it is our view, that there is still room for further adjudication of ECHR article 3 in cases related to coercion.[17]

Thus, we conclude that the necessary general measures have not been taken, and that the adopted measures are insufficient to address the root causes related to the use of belt restraints.

In addition, we would like to draw the Department's attention to the report published by the Health Authority in January (Annex 5) that contains the Health Authority's analysis of whether it is possible to introduce new, alternative forms of coercion to substitute the most intrusive forms of coercion, namely prolonged mechanical restraint. We are concerned that this initiative, if implemented, will result in certain forms of coercion being substituted by others, rather than reducing the overall use of coercion in psychiatric institutions, as well as as this

[14] Gildberg, FA., and oters. Retspsykiatrisk Forskningsenhed Middelfart (RFM), Institut for Regional Sundhedsforskning, Det Sundhedsvidenskabelige Fakultet, Syddansk Universitet. Published January 2025 (Annex 4).
[15] Council of Europe, CPT, Report to the Government of Denmark, CPT/Inf (2024), 12 December 2024, para. 141.
[16] Ibid, para. 145. Denmark is due to respond to CPT's report in May 2025, see Council of Europe anti-torture Committee (CPT) holds high-level talks on prisons and psychiatry in Denmark - CPT
[17] See also Annex 2.

could potentially increase the overall level of coercion and worsen conditions for patients, family members, and staff, as concluded in the research report (Annex 4).

3) What needs to change?

First, we would like to refer to the Health Authority's own recommendations from 2021 that focused on the six core strategies and on reducing coercion in psychiatry by, for example, practices of early interventions, therapeutic engagement, and de-escalation techniques to create less restrictive environments.[18] As a result various projects were implemented, including belt-free wards, and these showed that belt restraints can be almost entirely avoided without an increase in the use of other coercive measures. [19]

Secondly, we recommend intensifying efforts to prevent coercion as far as possible through adequate care, nursing, and treatment, as recommended in the research report (Annex 4). Moreover, with regards to funding, it is disappointing that only 17,8 million DKK was allocated annually from 2026 for measures regarding coercion under the 10-year plan [20] whereas in 2014, the Government prioritized 50 million DKK annually to meet the goal of 50% reduction in the use of belt restraints. Thus, a plan far better funded, which we recall, was not successful.

Thirdly, we would like to highlight the combination of increasing use of coercion in the psychiatry (see above) with a lack of focus on rule of law. This may pose a significant challenge to Denmark's compliance with human rights protection in this area.[21]

2) Procedural issues

As the case of *Aggerholm* is an expression of a general and systematic practice in Denmark, we reiterate our recommendation to the Department of Execution of Judgement to assess the implementation of this case after the enhanced procedure.

[18] Health Authority, Recommendations for reduction of coercion for persons with mental disorders, January 2021.
[19] Sundhedsstyrelsen, *Bedre mental sundhed og en styrket indsats til mennesker med psykiske lidelser – Fagligt oplæg til en 10-årsplan." Sundhedsstyrelsen, 2022*, p. 47 and 144
[20] Udmøntningsaftale, 2 April 2024, p. 11.
[21] See further Annex 2.

Annex 1: Danish Institute for Human Rights, Follow-up Submission to the UNCAT, February 2025

Annex 2: Danish Institute for Human Rights, Unnecessary Coercion in Psychiatry – when coercion replaces treatment, care and nursing, January 2025

Annex 3: Danish Institute for Human Rights: Policy Brief, Udvidede tvangsformer kan føre til mere tvang og ringere forhold for psykiatriske patienter, February 2025

Annex 4: Gildberg, FA., Pedersen, ML., Lindekilde, C., Baker, J., Birkeland, S. Retspsykiatrisk Forskningsenhed Middelfart (RFM), Institut for Regional Sundhedsforskning, Det Sundhedsvidenskabelige Fakultet, Syddansk Universitet, January 2025,

Annex 5: Reduction of the most intensive forms of coercion: The Health Authority's assessment, January 2025

Copenhagen, 26 November 2024

ECCHR and DIGNITY's foretræde
Folketingets Retsudvalg

effective implementation in practice of the new legislation regarding criminalization of torture and other international crimes, i.e., law proposal L58

European Center for Constitutional and Human Rights (ECCHR) and DIGNITY – Dansk Institute against Torture highly appreciate the opportunity to submit and present our recommendations regarding the effective implementation of the new legislation regarding the criminalization of torture and other international crimes, i.e., law proposal L58, at the foretræde 28 November 2024.

ECCHR, based in Berlin, is an independent, non-profit legal and educational organization dedicated to enforcing civil and human rights worldwide. ECCHR has extensive experience in building cases and filing criminal complaints, representing, and supporting victims and survivors of serious international crimes. Their expertise is derived from interventions during investigations as well as in court and collaborations with prosecutors, the police, war crimes units, the EU Genocide Network as well as with NGOs and lawyers in international crimes cases across Europe. ECCHR provided input on the recently concluded reform of Germany's international crimes law and on the draft Danish legislation regarding international crimes.

DIGNITY is an international human rights and development organization. DIGNITY works with a mandate to prevent torture and violence, rehabilitate traumatized victims, and support local partner organisations in documenting serious human rights violations, with the goal of holding perpetrators accountable. DIGNITY and its supported partners, that operate in contexts such as Belarus, Ukraine and Palestine, have a keen interest in ensuring accountability for survivors of torture and other victims of international crimes.

With the new legislation entering into force, as expected on 1 January 2025, Denmark will face the unique opportunity to send a clear signal that it stands on the side of the victims of the world's most heinous crimes. Denmark's investigations and its contribution to foreign investigations, e.g. through the collection and sharing of evidence, will greatly contribute to the fight against impunity for international crimes.

ECCHR's experiences in Germany have shown that having a legislative framework in place is an essential first step in ensuring the enforcement of international criminal law domestically. Following it up with fit-for-purpose implementation measures is essential in allowing the legislation to unfold its full potential.

In Denmark, the investigation and prosecution of international crimes will be carried out by NSK – National enhed for Særlig Kriminalitet and SSK – Statsadvokaten for Særlig Kriminalitet. Both authorities will have to act as the driving force to ensure the law's operational functionality by living up to their mandate to initiate investigations, to prosecute international crimes if the alleged perpetrator is present in Denmark, and to secure evidence of international crimes that is available in Denmark. Such evidence can consequently be shared via the databases of Eurojust and Europol in order to support the war crimes units and law enforcement agencies in other European Union member states in their investigations. Danish authorities would vice versa benefit from evidence sharing for their own investigations.

By successfully implementing this new legislation, Denmark can contribute to and foster united and strong **European cooperation** in the investigation and prosecution of international crimes. Denmark has the possibility to emerge as a leading player in the combat against impunity, thereby strengthening its reputation in and beyond Europe.

Based on our experience, effective implementation of the new legislation would require:

1. **Resource allocation**

Sufficient resource allocation to NSK and SSK must be a priority Even a small increase in permanent staff members that are fully dedicated – without tasks to investigate other special crimes as well - to the investigation and prosecution of international crimes can be a cost-effective measure for increasing Denmark's contribution to accountability for international crimes. Adequate resourcing would also allow Denmark to become a more engaged player in existing cooperation efforts. This includes enhanced participation in the regular meetings of the EU Genocide Network, the forum fostering cross-border collaboration in increasing and strengthening investigations and prosecutions in Europe. Dedicated officers tasked with handling mutual legal assistance requests regarding international crimes processes would also be conducive to establishing Denmark as a reliable partner for other countries.

2. **Proactive approach**

Institutionally, NSK should be empowered to act proactively and initiate structural investigations (i.e. on specific conflict situations and not person-specific). NSKs role should not be limited to reacting to complaints being submitted but should include the capability to act ex-officio.

3. **Cooperation across agencies**

Systematic cooperation between the Danish asylum authorities and NSK will allow a smooth flow of information and ensure the collection of important testimonies of witnesses. Examples of such coordination from Norway and Germany could serve as useful inspiration for establishing cross-agency referral pathways in Denmark.

4. **Training**

Empowering all stakeholders involved (investigators, prosecutors, judges and lawyers) in the enforcement of the law proposal via adequate training is another strong tool in ensuring effective implementation. Given the nature of international crimes, training must cover guidance on gender- and child-sensitive investigations and prosecutions.

5. **Involving civil society**

Civil society can play a vital part in building the bridge between victims and the authorities. Improved collaboration, direct referral mechanisms, and sufficient resource allocation will allow civil society actors, such as trauma support centers, refugee support groups and other organizations working with affected communities, to play their role.

6. **Transparency and outreach**

Adoption and implementation of the new legislation also provides an opportunity for engaging in outreach and communication with affected communities. Easy to access information in various languages should be disseminated among relevant civil society actors, refugee communities and other relevant stakeholders.

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As organisations experienced in supporting victims of torture and other international crimes, DIGNITY and ECCHR are ready to support the implementation of the legislation regarding criminalization of international crimes. We remain at your disposal for any further questions.

DIGNITY
DANSK INSTITUT MOD TORTUR

The Ministry of Defence
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Copenhagen, 20 January 2025

Consultation on draft proposal for the act on defence cooperation between Denmark and the United States of America etc.

DIGNITY would like to thank the Ministry of Defence for the opportunity to comment on the above draft bill. Our comments are limited to the part of the bill that concerns DIGNITY's mandate, including the prohibition of torture and supervision of people deprived of their liberty.

The new agreement between Denmark and the US was signed by the two governments in December 2023 and establishes the framework for a strengthened cooperation between Denmark and the US on defence and security. The agreement supplements and expands the terms set out in the NATO Status of Forces Agreement (SOFA),[1] and means that US soldiers can be stationed on Danish territory and stay on Danish military bases, where they will have exclusive access to certain areas. If the US soldiers commit criminal offences, Danish criminal jurisdiction will not apply. This raises some important and fundamental legal issues, including regarding Denmark's sovereignty and obligations under international law and human rights law, which in our opinion require a thorough discussion before and during the Danish Parliament's upcoming debate on the bill.

The agreement refers in general terms to the fact that "all activities under this Agreement shall be carried out with full respect for Denmark's sovereignty, constitution and constitutional customs, legislation and obligations under international law", cf. Article 1(2). We are concerned that the agreement and the explanatory notes to the law do not elaborate on how Denmark will ensure compliance with this provision during the 10-year agreement period, including international law obligations under the UN Convention against Torture and the UN Optional Protocol to the Convention (OPCAT Protocol). The agreement should address what will happen if Denmark's obligations under international law are not complied with, and what mechanisms will apply.

[1] Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, June 1951.

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The broad scope of the agreement

The agreement applies to "US forces", according to Article 2(1), which includes persons in the "unit consisting of the force and the civilian component". In light of this wording, we must assume that the agreement does not apply to US security authorities and members of the CIA. This is important, among other things in relation to ensuring the prohibition of torture during an interrogation, and this should therefore be clarified in the agreement.

The agreement also applies to US suppliers, which is broadly defined in Article 2(4) and includes all companies present on Danish territory in their capacity as suppliers or subcontractors under contract with the US Department of Defence for the provision of goods and services. We find it worrying that the wording of the agreement could also include, for example, private security companies with a mandate to interrogate persons deprived of their liberty. In our view, the agreement should not apply to private security companies.

The agreement also refers to 'official' and 'non-official' offences without clarifying the scope and distinction between the two categories and who is competent to further define the two concepts. This should be clarified in the agreement for reasons of criminal jurisdiction (see below).

In light of the above-mentioned unclarities, we urge the Ministry to further specify and clarify the scope of the agreement.

The prohibition of torture and inhuman and degrading treatment

According to Article 1(2) of the agreement, all activities under the agreement shall be carried out with full respect for Denmark's sovereignty, constitution, legislation and obligations under international law (see above). Torture is criminalized in the Danish Criminal Code, cf. § 118 1,[2] and Denmark has international obligations to uphold the prohibition of torture and investigate any reasonable suspicion and allegation of torture, cf. the UN Convention against Torture articles 1 and 12, and the European Convention on Human Rights (ECHR) article 3.

[2] Torture is punishable by imprisonment of up to 12 years for anyone working in a Danish, foreign or international public service or office, or who exercises a function corresponding or equivalent thereto, and who inflicts severe physical or mental pain or suffering on another person, or who encourages, consents or similarly agrees to such pain or suffering being inflicted by a third person 1) to obtain information or a confession from someone, 2) to punish, intimidate or coerce someone to do, suffer or abstain from doing something; 3) on the basis of any form of discrimination, including that person's sex, race, colour, national or ethnic origin, political opinion, social status, disability, belief, sexual orientation, gender identity, gender expression or sex characteristics; or 4) for a purpose of a similar nature.

In 2014, the European Court of Human Rights (ECtHR) concluded in two cases that Poland had contributed to torture and unlawful detention because the USA had tortured and mistreated people during interrogation in Poland.[3] We are concerned that a similar situation could arise on Danish territory.

The explanatory notes to the law proposal do not address Denmark's international obligations under the prohibition against torture and how Danish authorities will ensure compliance with the prohibition against torture in relation to US forces on Danish territory, including in relation to Danish law, international obligations and criminal jurisdiction. We are therefore concerned that situations may arise during the agreement period where Denmark cannot ensure compliance with the prohibition against torture on Danish territory, including by quickly launching an impartial investigation in any case where there are reasonable grounds to believe that an act of torture has been committed on Danish territory. In our assessment, the Ministry and the Danish government cannot disclaim responsibility under the international human rights conventions by establishing exclusive US areas on military bases in Denmark, cf. also the two ECHR judgements mentioned above.

We urge the Ministry to consider the above and to explain in the explanatory notes to the Act the mechanisms and procedures for ensuring compliance with the international obligations in connection with the implementation of the agreement.

Interrogation of detainees on "US territories"

It is highly criticized that the agreement does not address whether US forces are entitled to bring prisoners of war or other detainees to Danish military bases and to conduct interrogations in Denmark. As far as we understand the text of the agreement, there is nothing to prevent this from happening and that US forces will conduct interrogations on "their territory".

It is well documented that US forces, during the war on terror in the aftermath of 11 September 2001, used torture during interrogation of detainees, see the 2014 US Senate report, the UN Committee Against Torture's concluding observations to the US in December 2014 and the 2020 UPR report.[4] There is no guarantee that a similar US-led programme could not be implemented again in the future.

We therefore urge the Ministry to clarify that US forces will not be authorised to bring prisoners of war or other detainees to Danish military bases to conduct interrogations.

[3] Al Nashiri v. Poland, no. 28761/11 and Husayn (Abu Zubaydah) v. Poland, no. 7511/13, 24 July 2014.
[4] www.congress.gov; CAT/C/USA/CO/3-5; and A/HRC/WG.6/36/USA/2 .

OPCAT supervision of persons deprived of their liberty

If the agreement is also to include the right to bring persons deprived of their liberty to Denmark, the Danish Parliamentary Ombudsman and the National Preventive Mechanism in accordance with the mandate under the OPCAT Protocol should at least have the opportunity to visit persons deprived of their liberty without hindrance, cf. sections 7 and 19 of the Ombudsman Act[5] in order to strengthen the protection against and prevention of torture and other degrading and inhuman treatment.[6]

Criminal jurisdiction for non-official offences

Denmark has clear legal obligations under the UN Convention against Torture to investigate cases that fall within the scope of the UN Convention against Torture, cf. Article 12. Similar obligations apply under the ECHR, cf. Article 3, which also entails certain positive obligations to prevent and protect against torture etc., including by taking measures to protect individuals from torture in law and in practice. This aspect of protection against torture etc. has become increasingly important, and three months ago, Denmark was convicted by the ECHR for failing to take the necessary measures in a rape case, cf. Article 3 ECHR and Daugaard Sorensen v. Denmark. [7]

The new agreement deviates from the general principle of Danish criminal jurisdiction over non-official offences committed by US forces. We are concerned that Denmark cannot fulfil its international obligations, cf. above, when the general principle of criminal jurisdiction is deviated from, cf. Article 12 of the agreement. We therefore urge Denmark to maintain criminal jurisdiction over US forces in relation to criminal offences that may fall within the scope of the UN Convention against Torture and Article 3 of the ECHR. If the current text of the agreement is retained, it should at least be stated in the explanatory notes that "specific cases of particular importance to Denmark", where Denmark may choose to revoke the

[5] LBKG 2013-3-22 no. 349. See also Articles 19 and 20 of the OPCAT Protocol: The national preventive mechanisms shall be granted at a minimum the power: (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment; (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations.

[6] OPCAT Article 4.2 defines detention as: "any form of detention or imprisonment or placement of a person in a public or private place of detention which that person is not authorised to leave freely, by order of a court or by decision of an administrative or other authority. Article 4 is further interpreted by the UN Sub-Committee in General Comment No. 1 of 4 July 2024 (see g2409935.pdf).

[7] Case 25650/22, judgment of 15 October 2024.

waiver of criminal jurisdiction, include cases concerning the UN Torture Convention and ECHR Article 3.

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In conclusion, we would like to add that it is surprising to us that a draft of such a complex bill with many fundamental legal issues, including regarding Denmark's sovereignty and the scope of Denmark's obligations under international law and human rights law, is sent out for consultation with a relatively short consultation period from 23 December 2024 and with explanatory notes that only sporadically address Denmark's legal obligations. A thorough consultation process and detailed explanatory notes are a prerequisite for a proper discussion in the Danish Parliament and in the public debate.

We are of course available for further comments.

Sincerely yours

Rasmus Grue Christensen
CEO, DIGNITY

To the United Nations Committee against Torture

Copenhagen, 27 February 2025

Coalition of Danish NGOs' Submission to the UN Committee Against Torture

The Coalition of NGOs in Denmark (the Coalition), who together submitted the alternative report to the Committee in November 2023, is making this submission in response to Denmark's follow-up response of 22 November 2024.[1]

The Committee against Torture requested Denmark to provide information on the implementation of three of the Committee's recommendations, i.e., 1) conditions of detention (para 19 (a) – (g)); 2) migration detention (para 25); and 3) the use of coercion in psychiatric institutions (para 37), as noted in the Committee's Concluding Observations of 8 December 2023.[2]

Initially, we would like to note that one month ago, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the CPT) held a high-level meeting with the Danish Minister of Justice and other authorities with the view to underline its concerns by the slow progress (or even the absence of progress) in the implementation of some of its long-standing recommendations, including issues covered by the three follow-up topics.[3]

We agree with the CPT and take the view, as explained below, that further measures need to be taken to fully implement the recommendations.

Conditions of detention (recommendations para 19)

Overcrowding in Danish prisons and other detention facilities (para 19 (a))

The Committee recommended to alleviate the overcrowding in penitentiary institutions and other detention facilities, including through non-custodial measures and the recruitment of an adequate number of trained staff.

[1] CAT/C/DNK/FCO/8. Our submission is drafted in accordance with the guidelines provided by the Committee.
[2] Concluding observations, CAT/C/DNK/CO/8, para 50.
[3] Press release: Council of Europe anti-torture Committee (CPT) holds high-level talks on prisons and psychiatry in Denmark - CPT. See also CPT, Report to the Danish Government on its visit to Denmark from 23 May to 3 June 2024, (CPT/Inf (2024) 38).

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As noted in the follow-up response, in the first 10 months of 2024 capacity utilization in prisons was at 100.9 percent nationwide. Thus, Denmark has not yet fully implemented this recommendation.

We note the various initiatives to increase prison capacity, but we remain strongly concerned about the situation, as also noted in our alternative report[4], because a prison cannot function effectively when operating at 100 percent of its capacity.

The CPT has raised concerns and concluded that overcrowding continues to be a major problem in Denmark. The CPT called upon the Danish authorities to develop a strategy to ensure that all prisons operate within their official capacities. This should include increased resort to alternatives to imprisonment, for instance electronic monitoring and community sanctions. The CPT noted that measures taken by the Danish authorities to respond to the increase in the prison population consisted essentially of building new prisons while reminding Denmark that expanding capacity cannot by itself provide a lasting solution to the problem of overcrowding.[5]

We agree with the CPT and urge Denmark to take effective steps to address the issue of overcrowding until increased capacity has been obtained.

Pre-trial detention (para 19(b))

Denmark has not yet implemented the Committee's recommendation regarding pre-trial detention and e.g., introduced legislation to more adequately regulate the conditions and rights of pre-trial detainees and ended the *de facto* solitary confinement of pre-trial detainees. In its follow-up report, Denmark noted that the matter will be addressed in the context of the penal reform.

We reiterate our strong concerns about the situation for pre-trial detainees and recommend the Committee to call upon Denmark to improve the situation for pre-trial detainees and immediately to end the use of *de facto* solitary confinement.

Restrictions on pre-trial prisoners' contact with the outside world (para 19(d))

The Committee recommended to Denmark to ensure that all restrictions placed on the contact of prisoners on remand with the outside world are necessary and proportionate and take into account the individual circumstances of each case.

We note the new initiative regarding digital booking system for visitors and that, as noted in the follow-up report, the Prison and Probation Service will implement the

[4] NGO Alternative Report, November 2023, p. 19.
[5] CPT, Report to the Danish Government on its visit to Denmark from 23 May to 3 June 2024, (CPT/Inf(2024) 38.

remaining recommendations in 2025. We welcome this and stand ready to provide input to this important work.

Limit the practice of strip-searching persons deprived of their liberty (para 19 (f))

We note that the Prison and Probation Service plans to introduce national guidelines on the procedure of strip-searches in 2025, as noted in the follow-up report. We welcome this initiative and stand ready to provide input. We recommend ensuring that the future practice will not entail the risk of degrading treatment in violation of article 16 of the Convention against Torture. We note the new guidelines regarding strip searches adopted by Copenhagen Police (Annex 1).

Migration detention (recommendation no. 25)

With regards to the detention center Ellebæk, Denmark has over the years received international and national criticism. The Committee recommended Denmark to specifically ensure that detention for the purposes of deportation is applied only as a last resort and, if applied, for as short a period as possible. Moreover, the Committee underlined that the regime and conditions at Ellebæk should be designed in a manner befitting the status of persons who have not been criminally convicted.

Denmark has not implemented this recommendation.

Recently, the CPT again urged Denmark to eliminate all prison-like features at Ellebæk, but nothing has changed. We agree with the CPT and reiterate our concerns regarding administrative detention and the conditions at Ellebæk.

We suggest the Committee to ask Denmark to adopt the recommendation, including by taking steps to implement torture screening upon arrival at Ellebæk and to ensure that victims of torture are not detained at Ellebæk, as it happens today.[6]

Use of coercion in psychiatric institutions (recommendation no. 37)

The Committee recommended that Denmark should continue its efforts to reduce recourse to coercion in psychiatric institutions and should ensure that physical or chemical means of restraint are used only as a last resort.

In its follow-up response, Denmark referred to the various initiatives taken over the last years to reduce the use of coercion in psychiatric institutions.

We welcome these initiatives, including the 10-year plan to improve the psychiatric and mental health field (September 2022) with the overall aim to reduce coercive

[6] As documented by Amnesty Internatioanl, 2024: Saarbare-udlaendinge-bag-tremmer_Amnesty-International-Danmark_Final_27.06.2024.pdf (Annex 3).

measures by 30% by 2030, legislative amendments and new regulations. We also note the Government's recognition of the challenges to reach the goals and that the reduction in coercive measures is yet to be seen in practice.

We maintain the view that the use of coercive measures continues to be frequent, as we mentioned in the case of *Aggerholm v. Denmark* earlier this week (Annex 2). Thus, the various initiatives have not yet had any significant or measurable effect on the use of coercion in psychiatric institutions.

In our view, Denmark has therefore not implemented the recommendation to use coercive measures as a last resort and we recommend the Committee to urge Denmark to step up its efforts in this field.

Annex 1: Copenhagen Police Action Card, Strip-search, July 2024 (in Danish).

Annex 2: Submission to the Department of Execution of Judgements of the European Court of Human Rights in the case of *Aggerholm v. Denmark*, February 2025.

Annex 3: Amnesty International Denmark, Saarbare Udlændinge bag Tremmer, June 2024 (in Danish).

Annex 6: Additional suggestions by the Women's Council Denmark

Surrogacy

Improving the Legal and Ethical Framework for Altruistic Surrogacy

The Women's Council Denmark supports maintaining the legal possibility of altruistic surrogacy in Denmark but stresses the need to improve regulation and support mechanisms. The surrogate mother's right to bodily autonomy must remain inviolable throughout the pregnancy, and no agreement may override her decisions during this time. Current Danish law prevents legally binding agreements on transferring custody before birth, in line with the Child Act, but legal and procedural ambiguities can lead to uncertainty and conflict. There is also a lack of impartial counselling, public fertility treatment access, and regulation to ensure the child's right to know their genetic and gestational origins.

Suggested issues:

- What steps has the State party taken to ensure legal clarity and equal protection for all parties in altruistic surrogacy arrangements, including establishing a neutral counselling body?
- Will the State party guarantee public access to fertility treatment, including double donation, for those entering into altruistic surrogacy agreements?
- How does the State party safeguard the surrogate's right to bodily autonomy throughout the pregnancy and the child's right to know their origins?

Risks of Exploitation and Rights Violations in Commercial Surrogacy

The Women's Council Denmark strongly opposes the legalisation or recognition of commercial surrogacy arrangements. Commercial surrogacy commodifies pregnancy and children, and reinforces harmful perceptions of women's bodies as vessels for reproduction. It also raises serious concerns under international human rights law regarding the protection of children from being treated as objects of trade. In many cases, such arrangements are made in countries where women's reproductive autonomy is not protected, and where maternal health risks are significantly higher. Legalising or easing restrictions on commercial surrogacy — including through recognition of foreign contracts — would risk institutionalising global inequality and exploiting vulnerable women.

Suggested issues:

- Will the State party reaffirm its commitment to maintaining the ban on commercial surrogacy in accordance with international human rights obligations, including the rights of women and children?
- How does the State party ensure that Danish authorities do not legitimise or indirectly encourage commercial surrogacy arrangements conducted abroad, particularly in countries with significant gender inequality and weak health protections?
- What safeguards are in place to prevent the use of commercial surrogacy from undermining protections against trafficking, exploitation, and the commodification of children?

Screening asylum-seekers in Denmark for torture using a structured questionnaire

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Abstract

Background: The United Nations Committee against Torture recommends systematic torture screening throughout the asylum process. The goal of this study is to evaluate the workflow following introduction of a structured questionnaire, coding for torture.

Material and Methods: The screening questionnaire is built up as a check list meeting the legal definitions of torture according to United Nations Convention Against Torture (UNCAT), article 1. The screenings were carried out during a 2 years period as a part of the routine health screening of newcoming asylymseekers, and alleged torture victims were referred to further medical examination and offered assistance to carry information about the torture to the Immigration Service. Results of the screenings were registered retrospectively, using electronic medical records.

Results: The participation rate was 85.2%, and torture was reported among 27.8% of the males and 14,1% of females with a mean of 21.2% among both sexes. The Immigration Service refused access to asylum documents.

Conclusions: The screening test for torture needs further validation (e.g. for interrater reliability), but offers preliminary data for early identification of tortured asylum-seekers. Data are easily extracted from electronic medical records and urge the medical service and legal authorities to ensure as full rehabilitation as possible to victims of torture.

Keywords: Torture, screening, questionnaire, asylum-seekers, UNCAT

Key findings

Identification of torture survivors in big groups of asylum-seekers must take place throughout the asylum process but early identification of torture survivors is crucial to both rehabilitation and the legal asylum procedure.

A checklist based on the legal definition of torture (UNCAT) is applied and is well accepted by staff

Introduction

The United Nations Committee against Torture published their concluding observations on their periodic reports of Denmark in 2016 and expressed *concern at the lack of a regular mechanism for the identification of victims of torture throughout the asylum process. …..It is also concerned at the lack of a system for handling victims of torture upon their identification during administrative detention* (arts. 3, 13 and 14).

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Moreover, the Committee recommended Denmark: "*to put into place procedures for the systematic screening and medical examination of alleged torture victims by qualified personnel throughout the asylum process, including at reception centres and places of detention and ensure, that victims of torture have prompt access to rehabilitation services"* (The United Nations Committee against Torture, 2016).

In saying this, the Committee recognises that identification of torture survivors by the authorities must be an ongoing effort throughout the asylum process and the validity of an initial screening cannot be sufficient. Asylum seekers who are torture survivors might be identified in different settings during the asylum process such as the health system and the legal system and the clinical symptoms after trauma may get worse over time caused by post migration stressors and vulnerability.

Asylum seekers in Denmark have expenditures and necessary healthcare services defrayed by the Danish Immigration Service in accordance with the Aliens act. Since 1984 Red Cross has performed this task on behalf of the Danish Immigration Service including offering all newly entered asylum-seekers a health interview in connection with the first accommodation in the asylum centre system (Medical Reception).

The Operation Contract 2017 between the Danish Immigration Service and Red Cross stipulates that Red Cross must screen *"for consequences of torture according to the Convention against Torture (UNCAT), Article 14 for the purpose of treatment by a psychologist, psychiatrist, physiotherapist or dentist etc. in accordance with the guidelines issued by the Danish Immigration Service for health services and dental treatment* ". Furthermore identification of a torture survivor impose the State Party not to extradite him/her to another State, where there are substantial grounds for believing that he/she would be in danger of being subjected to torture. (Article 3)

Screening for torture therefore must take place early in the asylum procedure and fulfill both medical and legal purposes.

In a systematic review of research literature, only three studies deal with torture and newcoming asylum-seekers (Sigvardsdotter, E. et al., 2016). One study aimed to validate own testimonies of their possible previous exposure to torture according to the definition of torture in the Declaration of Tokyo (World Medical Association, 1975). This definition does not claim an acting of a public official during torture. A structured interview was conducted by a nurse, including questions about nine frequent types of deliberate violence. A clinical reference thereafter was produced by the conduct of a semi-structured in-depth interview by a trained psychologist. This interview lasted one to two hours. It was found that the sensitivity (true positives) was 81,8% and specificity (true negatives) was 92,3%, and it was concluded that refugees own testimonies of torture appeared fairly valid. (Montgomery, Foldspang, 1994). The second study performed the entry medical assessment of 573 asylum-seekers within the first 15 days of arrival using a short questionnaire recording physical and mental symptoms and a list of traumatic events. There was no reference to the definition of torture. The checklist was easy to administer and it usually required 15 minutes per person. Torture was reported by 18% of the sample (27% of men and 3 % of women) Overall, persons who reported torture had a higher frequency of psychological symptoms than those who did not. (Loutan et al., 1999). The third study was conducted by medical doctors. 142 newly arrived asylum-seekers were examined according to the Torture Convention (UNCAT) and the principles of the Istanbul Protocol (UN Office of the High Commis-

sioner for Human Rights, 2004). (Masmas et al.2008). The examination lasted 1 hour and showed that 45% had been exposed to torture and among these 63 percent fulfilled the criteria for post-traumatic stress disorder, and 30-40 percent were depressed, in anguish, anxious, and tearful. These figures are rather high regarding the extent of mental health among the non-tortured asylum-seekers (5-10%), but at the same time they indicate, that not all torture survivors have clinical symptoms at arrival. Classifying potential torture survivors is of crucial importance in forensic settings and medical staff often are the first among professionals to become aware of post-traumatic symptoms compatible with torture. In situations with large influx of asylum-seekers data collection might be time limited and clinical or anamnestic information about former torture always must be followed up by clinical or legal examinations.

A study used a coding checklist (Torture Screening Checklist) extended with two psychological symptom measures to classify potential clients' history as torture or not torture as specified by WMA, UNCAT and United States' Torture Victims Relief Act (TVRA) (US Torture Victims Relief Act, 1998). (Rasmussen, A. et al., 2011). It was found that there were minor differences classifying torture according to WMA (99,2%), UNCAT (97%) and TVRA (93,9%). Thus the gateway criterion, abuse by an authority, was consistent with the WMA and UNCAT criteria and somewhat less consistent with the TVRA criteria. Adding the criterion from the Torture survivors program (Office of Refugee Resettlement, Torture Survivors Program, 2010), (that the asylum applicant was under the custody of the perpetrator) to the Torture Victims Relief Acts definition reduced the number of identified victims with 24.8 %. It was concluded, that adding an external criterion turns out to be very powerful, resulting in decisions that appear inconsistent with the definition they refer to. On the other hand no differences were found between tortured and non-tortured cases using the severity of psychological symptoms.

Consequently it might make sense in first line assessment to check for torture and mental health symptoms in separate procedures.

Since 1984 the medical reception of newcoming asylum-seekers in Denmark has been conducted by a nurse using a semistructured questionnaire as a gate to the health service system.. Former exposure to torture has been addressed during an opportunistic screening, but the reference to delimit the concept of torture has not been clarified . An early evaluation of the medical reception showed that 18.5% of men and 3.8% of women stated to have been subjected to torture. (Kjersem, H.J., 1996).

This study reports the results of implementing a screening test for torture based on the UNCAT definition in the reception of newly arrived asylum-seekers in order to

respond the request from the Committee against Torture to put into place procedures for the systematic screening and medical examination of alleged torture victims, and

to assist the asylum seeker in informing the authorities about his or hers subjection to torture as part of the legal asylum procedure

Methods

Since 2017 the medical reception in Denmark has been implemented with a structured health interview by a nurse, and the information is registered in a database with algorithms for different clinical issues.

The questionnaire contains 110 questions, but only relevant questions are used e.g. questions related to cardio-vascular, respiratory or psychological complaints. The questionnaire

includes information on age, gender, schooling and marital status. Mental health complaints are recorded as part of the health interview, but next to the clinical mental symptoms a universal screening test for torture is included (screening checklist).

If medical follow-up is needed in connection with the medical reception, a medical action plan for necessary health professional intervention is automatically drawn up by the algorithm or by the nurse e.g. for pharmacotherapy, diagnostics or therapy.

Newly arrived asylum-seekers are registered by the police in the reception centre and invited for a voluntary medical reception. The invitation is given to all accommodated asylum-seekers, including persons included in the "obviously groundless procedure" (persons from countries which are not supposed to persecute civilians) and those included in the Dublin procedure. The asylum seeker is summoned via call for an interview with a nurse, and an interpreter is ordered for the interview. If the asylum seeker does not show up, he/she is recalled, if the interview can be carried out within 10 days. If medical reception is not implemented in the reception centre, including the torture screening, the medical reception shall be offered at the residence centre.

Time spent at the medical reception is assumed to be 30 minutes including torture screening . This means that a proper balance between open and closed questions is important in order to maintain respect for the interviewee, while respecting the time frame.

The torture screening checklist was introduced in 2017 in the medical reception and presented to the nurses (interviewers) through locally held introductory programmes. This has been followed up through peer to peer training.

The screening checklist for torture builds only on the UNCAT torture definition and does not include clinical variables. (Checklist is posted in full in Annex 1). It is divided into 2 parts: (1) Questions for the interviewee and (2) Coding of the torture criteria. The conclusion as to whether torture or ill treatment has taken place or not are embedded in a clinical computerized algorithm. If torture has taken place, the asylum seeker will be referred to a doctor who may take further action if treatment is needed. The doctor is not expected to write a medical report for the authorities, but instead the asylum seeker is urged to inform the authorities about torture. The authorities bear the responsibility for the final legal decision according to art. 3 ("non-refoulement")

Evaluation of the whole medical database is outside the scope of this study, but shall be published by another group later on including mental health findings.. The present study presents result of screening for torture of asylum-seekers during the period of September 1, 2017 to August 31, 2019.

Ethics

All participants gave written informed consent to participate in the health screening procedure. The study was conducted with reference to the Danish Health Act Article 42d, 2, 2a. According to the Health Act an authorized medical professional may collect health informations and other confidential informations from electronical patient records, if the collection is necessary in connection with quality assurance or development of treatment processes and workflows.

Consequently permission from the Danish Patient Safety Authority according to the Privacy Act was not required in this case.

Results

During the study period, a total of 3081 new

asylum-seekers were registered including 2075 males and 1006 females. The medical reception was offered to 2368, since 713 had previously been screened within a 6 months period. They already had a medical file, and may have been asylum-seekers for a longer period thus belonging to another cohorte.

Of the 2368 asylum-seekers, medical reception was carried out for 2019, 255 did not wish to participate in the medical reception, and 94 were absent for unknown reasons.

The mean participation rate was 85.3% (2019/2368). 3.4% of the torture checklists were filled out in centres outside the reception centre. 34 nurses participated and among these, 4 nurses completed 82.7 % of all questionnaires. Inter-rater reliability data was not collected as the study was retrospective. However the feedback from the nurses confirms, that the simplicity of the questionnaire (Y/N answers) reduces the emotionality of the interview and the help questions are used first of all in individual cases e.g. language barriers or illiteracy.

Table 1 shows the demographical data of the screened asylum-seekers.

The figures show, that the age of males was higher than the age of females (p=0,002), and females more often are married and accompanied by their spouse than males.

Table 2 shows the outcome of screening tests distributed by nationalities with more than 50 asylum-seekers registered and others.

Positive screening tests differed among nationalities, but the mean proportion of positive test for torture was found to be 21.2%, much higher for males (27.8%) than females (11.4%).

In all 429 cases, a public official was involved in the alleged torture. These persons were offered a clinical assessment with a physician and among these 392 persons accepted to inform the Immigrations Service of previous exposure to torture.

Table 1. Demographical data of the screened asylum-seekers.

		Gender	
		Males	Females
Number of screened persons		1218	801
Medium age		33	30
Range		69	71
Number of married persons		480 (39,4%)	491 (61,3%)
Number of accompanying spouse		248 (51,7%)	303 (61,7%)
Education	#		
No schooling	168		
1-5 years (Elementary school)	96		
6-9 years (Middle school)	391		
10-12 years (High school)	596		
13-20 years (Higher Education)	768		
Medium years of schooling; 11 years			

Table 2. Number of screening tests for torture of newcoming asylum-seekers.

Country	Screening tests carried out	Males	Females	Torture positive screening tests	%	Male positive screening tests	%	Females positive screening tests	%
Afghanistan	64	40	24	10	15,6	8	20	2	8,3
Albania	67	41	26	5	7,5	4	9,8	1	3,8
Eitrea	61	35	26	18	29,5	13	36,1	5	19,2
Georgia	232	163	69	49	21,1	43	26,4	6	8,7
Iraq	108	60	48	16	14,8	14	23,3	2	4,2
Iran	188	123	65	60	31,9	47	36,7	13	20
Russia	76	44	32	25	32,9	21	47,7	4	12,5
Stateless Palestinians	64	41	23	10	15,6	7	17,1	3	13
Syria	418	165	253	46	11	38	23	8	3,2
Ukraine	59	40	19	16	27,1	8	20	8	42,1
Others	682	466	216	174	25,5	135	28,8	39	18
Total	2019	1218	801	429	21,2	338	27,8	91	11,4

Discussion

Implementing a screening test for torture based on the UNCAT definition in the reception of newly arrived asylum-seekers partly meets the request from The United Nations Committee against Torture. The simplicity of the questionnaire forming yes- and no-answers was appropriate both to the emotionality caused by questions and time involved. It should be kept in mind, that the interviewees in most cases are interviewed within 10 days after arrival not yet exposed to postmigration stressors. Test positive persons are referred to medical examinations by a doctor and might later display new or insignificant symptoms, but this information is not present in data from medical reception. The doctors predominately are specialists in general medicine and their primary task is to evaluate the need of treatment of physical and psychological sufferings.

Determining whether the answers indicate torture or other cruel, inhuman or degrading treatment or punishment is of minor importance in relation to need for rehabilitation. Handling of the asylum case on the other hand requires a more definite demarcation of the difference on a case-by-case basis and in a context of a political / legal discourse (e.g. European Court of Human Rights). (Lehtmets, 2013).

Most studies on the prevalence of torture originate from treatment institutions and statements of torture are therefore from selected

populations. The prevalence rates of torture differs and vary between 1 and 76% (median 27%) (Sigvardsdotter et al. , 2016). Torture rates are higher among men and older persons . This study shows an average life prevalence for torture of 21,2%, and here too the rate is highest in men (27,8%). In this study 118/429 persons (27.5%) have not been imprisoned or detained. This finding is in line with the findings of Rasmussen's study (2011) and would mean that the prevalence of torture among asylum-seekers would be restricted by adding new external criterias (e.g. ORR).

The UNCAT definition of torture does not implicate clinical findings. Therefore the test result from the screening must be validated through a more in-depth clinical investigation either in General Practise, at trained Psychologists/Psychiatrists or Forensic Medicine.

The second goal of this study was to evaluate the legal importance of early identification of victims of torture by systematic screening. 255/2019 did not accept to participate in the medical reception and 37/429 did not want to inform the Immigrations Service of previous exposure to torture. From a medical perspective, information about previous torture often is not surfacing until months or years after arrival, as the patient shows clinical symptoms of PTSD. The reason for this delay may be because the asylum seeker is not even perceiving the authorities' unlawful use of force in the homeland as torture, or because they may dread that the information ends in the wrong hands. Also, asylum-seekers may fail to tell about torture as memory failures as part of cognitive disabilities in the context of post-traumatic stress disorder (Herlihy, Turner, 2006) and finally information about torture may be associated with shame or guilt. In such cases the asylum interview with the Immigration Service must take into consideration that avoidance often is part of the post-traumatic syndrome. It may therefore be in favor of the asylum seeker that the Immigration Service is informed in advance of possible exposure to torture for the sake of conducting the asylum interview. The result of the torture check is not sent to the authorities, but the asylum seeker is urged to inform the authorities him/herself. The nurse may support this correspondence. The authorities afterwords may request informations from the medical reception which can be released with the consent of the asylum seeker.

It has not retrospectively been possible to trace information on how often torture information is crucial to the outcome of asylum cases. Instead questions have been submitted to the Migration Service and the Forensic Institutes in Denmark

In an email the Immigration Service has announced that case management has not been changed during 2017-18 while Red Cross has informed Danish Immigration Service about asylum-seekers who have been exposed to torture (asylum officer K. Knudsen, personal communication, march 3, 2020). The Immigration Service states, that granting asylum to tortured asylum-seekers depends on their risk of prosecution or violation at repatriation. The immigration Service refers to the Report from the Danish Refugee Appeals Board, 2018, p. 215 concerning assessment of evidence for torture

There are no figures from the authorities documenting the number of tortured asylum-seekers, who spontaneously transmit information about torture to the Immigration Service. Neither are there figures showing the total number of tortured asylum applicants.

The immigration authorities can arrange for a medical examination by forensic institutions in cases, where an applicant claims to have been subjected to torture and if it is assessed that a medical evaluation is needed.

However, a torture investigation will not be initiated in cases where the applicant's explanation must be rejected in its entirety as untrustworthy. Credibility as a subjective concept is inevitable for the verdict in asylum cases, and it has been shown that the likelihood of being granted a residence permit is associated with the asylum-seekers education but not with traumatization or human rights violations (Montgomery, Foldspang , 2005). Another study shows, that presence of physical signs and symptoms and their consistency with the refugee's story was positively associated with being granted asylum, but the presence of psychological symptoms and their consistency with the refugee's story was not. (Aarts et al., 2019)

During the period 1996-2002, 59 investigations were examined at the Department of Forensic Medicine, University of Aarhus. (Leth & Banner 2005). Overall 293 examinations were made including the Universities in Odense and Copenhagen. In the same period, the registration figures for asylum-seekers were 48609 persons.

The professors of the forensic institutes in Copenhagen, Odense and Aarhus state in emails , that they have conducted 2 studies in Copenhagen in 2018 and 1 study in Århus (personal communication from J. Banner, February 16. 2020, P.M.Leth, January 21. 2020 and L. Boel, January 21. 2020). In 2018 the gross number of asylum-seekers entering Denmark was 3559 persons. The Immigration Service has refused access to documents, showing how many asylum-seekers who had been referred to medicolegal examinations in 2018 (email from asylum officer J. Kampmann, personal communication January 16. 2020). The figures above cannot directly be compared without further analysis, but the number of referrals for medicolegal examinations has decreased in 2018 apparently with factor 7,5. (293/48609 – 3/3559).

In other words it has not been possible to gather information about legal case management supported by informations about torture from the medical screening.

The questionnaire has been easy to implement in screening procedures as a initial gate to information about torture and need for further examination and communication. The simplicity of 10 yes/no questions makes the interview short without emotionality, and promotes new staff to learn about torture and UNCAT, but it is not sufficient as a medico-legal report and a documentation tool in asylum cases. Interrater reliability is not known and ought to be determined.

Limitations

Implementing a test for torture in the medical reception of asylum-seekers is a cheap and fast procedure but is not intended to be diagnostic. The medical reception constitutes a socalled mass public health screening i.e. *multiple screening has been offered at ad hoc clinics staffed by auxiliary workers, positive results being notified to general practitioners*. (Wilson & Glover, Jungner, & World Health Organization, p18, 1968) The main object is to detect cases and bring those concerned to further examinations. The weakness of the checklist therefore is, that the proportion of false negatives is not known. All the same an older study showed, that refugees own testimonies of torture appeared fairly valid. (Montgomery & Foldspang 1994). The screening test is a check list referring to the definition of torture established in UNCAT. This definition does not contain clinical variables, but only legal terms. The legal terms of course are variables which should bee clarified in the checklist but also the observer (e.g. nurse) is involved in the reliability or efficiency of the test. The inter-

rater reliability is not known., so validation of reliability is needed.

It was shown that 255/2368 (10,7%) refused to participate in the screening. It is not known how many of these are victims of torture but participation in the medical reception and torture screening is voluntary and further identification of victims of torture from this group is expected to emerge from examinations within the medical service and legal case management.

Conclusions

Newcoming asylum-seekers have since 2017 been screened for former torture or degrading treatment using a structured questionnaire designed on the criterias of torture listed in United Nations Convention Against Torture (UNCAT).

According to this checklist and semi-structured interview, there is a mean self-declared prevalence of 21.2%, much higher for males (27.8%) than females (11.4%).

In this programme asylum-seekers subjected to torture or degrading treatment are referred to further medical examination and the asylum seeker is urged to inform the authorities about former torture to ensure both a medical and legal follow up.

Based on feed backs from the nurses the questionnaire has been well accepted by the asylum-seekers., easy to implicate as a screening instrument and used for learning about the Torture Convention. The checklist does not form a medicolegal documentation, but need further validation primarily to exclude false negative conclusions. The study is carried out during 2017-2019 during high migration movements in Europe with high proportion of Syrians with potential war related traumas. Though a growing number of asylum-seekers seems to have been granted asylum during 2017-2019 it has not been possible according to the Immigration Service to evaluate which proportion of the recognised refugee population who have been subjected to torture. This information is of crucial importance if repatriation is proposed.

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Annex 1

DIGNITY and Danish Red Cross Screening Instrument for Torture

Part 1. Questions for the interviewee

1	Have you ever been arrested, detained, or imprisoned?	□ Yes	□ No
2	Have you ever been subjected to severe violence, threats or degrading treatment?	□ Yes	□ No
3	Have you witnessed others being subjected to severe violence or degrading (abusive) treatment?	□ Yes	□ No

If the answer is no to all the first three questions, the screening closes with the conclusion that the interviewee has not been subjected to torture. If the answer is yes to just one of the three questions, the interviewee is encouraged to provide a narrative account:

4	Would you mind telling me what happened?

Help questions for the narrative presentation:

a. What did they do to you?
b. Who exposed you to it?
c. Do you know why they did it?

The help questions are intended as inspiration to guide the interviewee's narrative and do not necessarily need to be read out. The answer also serves as a guide to the interviewer as to whether there has been inhuman treatment or punishment. If the interviewee has been subjected to several incidents, he/she is asked to choose the incident that affected him/her the most. After the interview, the interviewer completes Part 2 of the form encoding the torture criteria

Part 2 Coding of Torture Criteria

To be filled in by the interviewer based on the interviewee's narrative statement

1	Was the person exposed to severe pain or suffering, physically or mentally?	□ Yes □ No
2	Was it done intentionally?	□ Yes □ No
3	Was there a purpose to the action?	□ Yes □ No
4	Was it a public official who committed or instigated the action?	□ Yes □ No

Conclusion

Coding result	Screening result
Y Y Y Y	The interviewee has probably been subjected to torture
Y N NY	The interviewee has probably been subjected to ill-treatment
Any other combination	The interviewee has probably been subjected to other forms of trauma