

BRIEFING NOTE: THE USE OF COERCION IN DANISH PSYCHIATRIC INSTITUTIONS

25 May 2023

BACKGROUND

The use of restraint by belt is widespread in Danish psychiatric institutions. For this reason, there has since 2014 been an increased political attention and allocated more funds for the purpose of reducing use of coercion in psychiatric institutions. But little has been achieved.ⁱ

The numbers of use of restraint by belt are still high. In the 12-month period from 1 January to 31 December 2022, the figure was 4904. Thus, there has been an increase with 6 % compared to the period from 1 January to 31 December 2021 (4623).ⁱⁱ In year 2022, the total number of all measures of coercion used on children below the age of 18 was 359, thus an increase with 7,5 % if compared with the previous year (334).ⁱⁱⁱ

RECENT COURT CASES

After the judgement of the European Court of Human Right (ECtHR) in *Aggerholm v. Denmark* in 2020, several court judgements regarding the use of coercion in psychiatric institutions have been issued by Danish courts and the ECHR.^{iv}

In the ECtHR case of *Dam v. Denmark*, the complainant had been belt fixated 25 hours in a psychiatric institution. The case was settled, as the Danish government concluded that likely violation of Article 3 ECHR.^v As a result, an amendment to the Mental Health Act was issued to oblige the on-duty staff to take notes at least every hour when a patient is restrained by belt.

In *M.P. v. Denmark* the complainant was fixated by belt for 19 hours and 27 minutes, when he was 13 years old, and for 10 hours and 25 minutes when he was 15 years old. The case has been settled due to recognition of Article 3 violation.^{vi}

In the ECtHR case of *Makki v. Denmark*, the complainant was restrained by belt for 11 days in a psychiatric hospital. The Danish Supreme Court found

that the use of restraint was lawful and not in violation of article 3. The case was communicated to Denmark on 16 March 2023, and DIGNITY has asked the ECHR for permission to intervene in the case as a third party.

In the above-mentioned cases, the government claims that the cases are not an expression of a general practice in Denmark.^{vii} We disagree.

COMPLAINTS TO THE PSYCHIATRIC PATIENT COMPLAINTS BOARD

In 2022, the Psychiatric Patient Complaints Board made decisions in 111 cases regarding initiation of restraints by belt. In 50 of these cases the Board found that the initiation of be restraints were unlawful. In the same period the Board made decisions in 75 cases regarding the duration of restraints and found that the decision to uphold restraints in 31 cases were unlawful.^{viii}

RECOMMENDATIONS

We recommend that:

1. Increased focus on prevention of the use of coercion in psychiatric institutions.
2. A precise and comprehensive justification is provided in each case before initiating and maintaining restraints by belt, especially when the restraint is sustained for longer than a few hours.
3. Better protection of the prohibition against inhuman treatment in these cases.
4. Allocation of more resources to the sector and more information about education of staff in psychiatric institutions.
5. Proper monitoring and assessment by doctors of the continued use of restraints by belt.
6. Accurate and comprehensive documentation for the use of restraint by belt in medical records.

ⁱ See DIGNITY and Better Psychiatry, Briefing Note to the CPT: The Use of Coercion at Psychiatric Institutions, 25. February 2021. See additionally the political agreement regarding the 10-year plan for the Psychiatry and mental health, September 2022: https://sum.dk/Media/637998818153312977/Psykiatriaftale_2022_FinalVersion.pdf.

ⁱⁱ The Danish Health Authority, Annex report to the Ministry's report on Monitoring of coercion in psychiatry, 1 May 2023, page 9 (In Danish).

ⁱⁱⁱ Ibid, page 6.

^{iv} DIGNITY, Better Psychiatry and Danish Institute for Human Rights, Communication to the Committee of Ministers for the Supervision of the Execution of Judgements and of Terms of Friendly Settlements in the Case of Aggerholm v. Denmark, 17 March and 10 July 2022.

^v Regarding the case of Dam v. Denmark, see the Health Ministry's press release here: <https://sum.dk/nyheder/2021/december/danmark-indgaar-forlig-i-sag-om-baeltefiksering> (in Danish).

^{vi} Regarding the case of M.P. v. Denmark see the Ministry's orientation to the Danish Parliament here: <https://www.ft.dk/samling/20222/almdel/§71/bilag/53/2705817.pdf>. (In Danish)

^{vii} Government's Action Plan to the Department of Execution of Judgements and of Terms of Friendly Settlements, 2 May 2022, page 5.

^{viii} The numbers have been retrieved from the Psychiatric Patient Complaints Board on 17 March 2023.