

Ministry of Justice
Slotsholmsgade 10
1216 Copenhagen

Copenhagen, February 17, 2021

Letter to the Minister of Justice regarding Udlændingecenter Ellebæk (*Immigration Center*)

Dear Minister of Justice Nick Hækkerup,

Amnesty International and DIGNITY are continuously monitoring the situation for foreigners who are remanded in custody or deprived of their liberty under sections 35 and 36 of the Aliens Act, respectively, and who are staying at the Ellebæk Immigration Center. We have chosen to contact you because we are concerned about their conditions and rights.

It is one year since the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its criticism of the conditions in Ellebæk.¹ It is positive that the government has since taken the initiative to improve some of the conditions in the institution, as detailed in the government's responses of March 3 and September 1, 2020 to the CPT. However, we are concerned that the CPT's and civil society's criticism of the conditions in Ellebæk² has not led to radical changes in a large number of other areas, including the general regime in Ellebæk, cf. below. Furthermore, much clearer consideration should be given to the fact that some of the inmates may be traumatized and that restrictions introduced as a result of the pandemic may have further aggravated their situation.

The general prison-like regime in Ellebæk should be changed

The purpose of a stay in Ellebæk is not to serve a sentence for a criminal offense or to wait for a court hearing as a remand prisoner, but rather to ensure that the police know where foreigners are when repatriation is to take place. Detention is also used as a "motivational measure".

According to CPT standards³, such a special institution for foreign nationals in an exit situation should not resemble a prison and should be run according to prison-like rules. We agree with the CPT that it is unacceptable that the foreigners in Ellebæk are treated as

¹ CPT report of January 7, 2020 CPT/Inf (2019) 35.

² NGO report of March 11, 2019 to the CPT (Appendix 4) and civil society's letter of June 9, 2020 to the Danish Parliament's Legal Affairs Committee.

³ CPT Foreign nationals detained under aliens legislation (CPT/Inf(97)10 -part): "In the view of the CPT, in those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centers specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably-qualified personnel" (para 29).

criminals.⁴ If they are exceptionally detained, it should be in institutions that take their needs into account.

We call on the Minister of Justice to explain how the government, in accordance with international standards, will ensure that Ellebæk is transformed into a suitable place for foreigners where they can enjoy at least some semblance of normality, for example by having free access to outdoor facilities and the ability to cook and stay in touch with family via their own cell phone or the internet.

In the same context, we ask for your thoughts on changing Ellebæk's appearance (e.g. by removing bars from the windows) and staffing from prison staff to civilian staff with other core competencies.

Vulnerable foreigners should not be detained

The group of vulnerable people in Ellebæk includes traumatized refugees, including torture survivors and people with other mental disorders.⁵ Detention of torture survivors, who are a highly vulnerable group, can be particularly stressful, and in certain situations trauma can be reactivated with exacerbation of PTSD symptoms, depression, anxiety etc. as a result. Reference is made, among other things, to a specific case concerning an Iranian Kurd who in June 2020 informed Amnesty International that he had previously been subjected to torture in an Iranian prison; that his stay in Ellebæk was the worst he had experienced; and that "after I have been in Ellebæk, I am always sick. I don't feel well. And after Ellebæk I am very scared".⁶

In our experience, information about a foreign national's vulnerability does not necessarily follow them from one institution to another.⁷ Limited or no disclosure of health information from other agencies can mislead the staff at Ellebæk into believing that the foreigners do not have health problems and therefore the necessary considerations are not taken into account.⁸

Deprivation of liberty of vulnerable persons in a manner that does not take special consideration may amount to inhuman treatment, cf. the European Convention on Human Rights (ECHR) Article 3 and the UN Convention against Torture and Inhuman or Degrading

⁴ report of January 7, 2020 CPT/Inf (2019) 35, p. 6. U.2017.2020Ø refers to the fact that a person deprived of liberty in Ellebæk cannot be punished under section 124(4) of the Danish Criminal Code for illegal possession of a mobile phone because Ellebæk is not a detention center/closed prison

⁵ Amnesty's Medical Group documented in 2013 that 27% of the 22 people examined in Ellebæk were torture survivors and that 33% of them suffered from PTSD, cf. Amnesty International's Medical Group: Detained asylum seekers in Ellebæk (2013).

⁶ Amnesty International news of September 4, 2020: Ellebæk is always locked down.

⁷ Rigsrevisionen's report submitted to the Danish Parliament with the State Auditors' comments: The process for refugees with trauma, Report no. 6/2018 of December 19, 2018.

⁸ This was, among other things, the case for a person who attempted suicide in Ellebæk in 2017, cf. the Parliamentary Ombudsman's letter of May 28, 2018 to Kriminalforsorgen.

Treatment or Punishment Article 16. Based on the latter provision, the UN Committee against Torture criticized the Danish practice in 2015.⁹

Four years ago, the government informed the UN Committee against Torture that the police in practice took vulnerability into account before and during detention.¹⁰ We call on the Minister of Justice to further explain the police practice (now at the request of the Home Travel Agency) with reference to cases involving the use of less intrusive measures than detention.

We see imprisonment as a serious interference with a person's freedom and recommend a changed practice of screening on arrival and then, as far as possible, placing vulnerable foreigners in departure centers without detention.¹¹ We urge the Minister of Justice to ensure that the legislative framework, including the upcoming Repatriation Act, is formulated in accordance with international standards so that vulnerable foreigners are not detained in Ellebæk as a starting point, but are offered special conditions and facilities. If, in exceptional cases, it is assessed that detention is the only way out, there should be clear procedures for ensuring the special needs of vulnerable foreign nationals, including in relation to their physical and mental health in order to also ensure the right to health.

Detention should be a last resort and as short as possible

The general length of stay for detainees in Ellebæk was 49.2 days in 2020 (until October 17, 2020).¹² The figure covers a wide range, and since November 2020, there have been more obstacles to exit in the form of travel restrictions. Many stay in Ellebæk for several months. As of January 21, 2020, 15 people had stayed in Ellebæk for between three and six months, nine people for more than six months, one of these for more than a year.¹³ According to our information, there are currently two people who have been detained in Ellebæk since November 2019 and thus for approximately 15 months.

⁹ UN Committee against Torture CAT/C/DNK/CO/6-7 of February 14, 2016 and List-of-Issues of January 28, 2019 (CAT/C/DNK/QPR/8(2019)). See also the UN Human Rights Committee's concluding observations to Denmark of August 15, 2016 and the UNHCR's corresponding recommendation, cf. UNHCR 2012, "Guidelines [...] relating to the Detention of Asylum-Seekers and Alternatives to Detention", p. 33.

¹⁰ Denmark's response to the UN Committee against Torture of December 30, 2016, CAT/C/DNK/CO/6-7/Add.1: "If an asylum seeker is in such a condition that it is estimated that detention is not possible - e.g. because the person is a victim of torture - the police will impose less restrictive measures. It should be noted that the fact that an alien has been subjected to torture generally does not exclude the use of detention. The police will, however, take into consideration personal information, including health information, concerning the alien before deciding on detention or less restrictive measures."

¹¹ DIGNITY has presented this criticism in its consultation response of December 30, 2020 to the draft of the new Return Act (Appendix 1) and Amnesty in its consultation response of December 22, 2020 (Appendix 2). See also the UPR joint report of October 15, 2020 (Appendix 3), DIGNITY shadow report 2015 and follow-up report 2016 to the UN Committee against Torture, and DIGNITY Joint Submission of May 30, 2014 to the UN Human Rights Committee: Comments on Draft General Comment No. 35.

¹² The Danish Prison and Probation Service's letter of November 20, 2020 to Amnesty International.

¹³ The Danish Prison and Probation Service's letter of January 24, 2020 to Amnesty International.

Deprivation of liberty is a significant burden. The UN Convention on Civil and Political Rights rights (ICCPR) therefore contains a prohibition of arbitrary deprivation of liberty (Article 9) as

a means of preventing inhuman treatment.¹⁴ Article 5(1)(f) of the ECHR requires that the authorities process the detainee's case with sufficient speed so that he or she is not detained unnecessarily long. In March 2020, the Council of Europe Commissioner for Human Rights recommended¹⁵ to release the detained asylum seekers whose removal was unlikely due to the travel restrictions. In our view, the unavoidable travel restrictions due to the pandemic should be included in the courts' assessment of whether the detention is necessary and meets human rights requirements.

Deprivation of liberty should only be used when the presence of the foreign national cannot be ensured by less intrusive measures, e.g. reporting to the police or depositing a passport, cf. sections 34 and 36 of the Aliens Act. We are concerned that the legislation allowing for detention of up to 18 months, cf. sections 36 and 37(8) of the Aliens Act, is not sufficient to ensure that detention is only used as a last resort and for the shortest possible period of time.

We therefore call on the Minister to ensure compliance with international norms in the upcoming repatriation law and prevent the risk of violation of the prohibition against inhuman and degrading treatment as a result of detention in Ellebæk.

Isolation as punishment should not be used in Ellebæk

Isolation in the form of punishment cell (as disciplinary punishment), which is used in Danish prisons, is also used in Ellebæk. According to figures from the Danish Prison and Probation Service¹⁶, unconditional solitary confinement was used 41 times in 2019, of which 18 were for 15 days or more, and 36 times in 2020 (up to and including November), of which 9 were for 15 days or more.¹⁷

A year ago, the Council of Europe's Committee against Torture generally criticized the application of prison rules to persons in administrative detention.¹⁸

The Mandela Rules state that solitary confinement for more than 15 days should be prohibited and that solitary confinement should not be used at all for people with mental health problems if their condition is exacerbated by solitary confinement.¹⁹ There is

¹⁴ See UN Human Rights Committee General Comment no. 35.

¹⁵ Statement of March 26, 2020, see <https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-release-of-immigration-detainees-while-covid-19-crisis-continues>

¹⁶ The Danish Prison and Probation Service's letter of November 20, 2020 to Amnesty International.

¹⁷ The Danish Prison and Probation Service's letter of December 16, 2021 to Amnesty International

¹⁸ CPT report of January 7, 2020, p. 7: "In particular, the Committee expresses its serious misgivings that the application of the prison rules led to a situation where detained migrants who were found in possession of a mobile phone had to be punished by law with at least 15 days of solitary confinement. This demonstrates once again that the application of the strict prison rules is not appropriate for persons held in administrative detention".

¹⁹ Rules 44(2) and 45(2) respectively.

evidence that solitary confinement has a negative impact on people's mental health.²⁰ In light of legal norms and evidence-based knowledge, we urge that solitary confinement is not used against foreigners in Ellebæk.

Observation rooms should not be used

A year ago, the Council of Europe's Committee against Torture strongly criticized the use of observation rooms in Ellebæk and called for an end to the practice of placing people who are assessed as suicidal naked in observation cells, as it entailed a risk of inhumane treatment.²¹ Recently, however, a younger suicidal Chinese student was, by his own admission, treated unacceptably in Ellebæk.²²

We call on the Minister of Justice to clarify the practice in this area and ensure that people in Ellebæk who are suicidal are transferred to a relevant hospital.

COVID-19 restrictions

As is the case throughout society, the pandemic has led to restrictions at Ellebæk. Firstly, visiting restrictions have been introduced, and inmates are now entitled to one visit every 14 days. Such restrictions on physical visits are understandable from a healthcare perspective and are used in many prisons in Europe. However, it is important that the prisoners' right to contact with the outside world²³ continues to be taken into account and that the authorities do everything possible to facilitate contact with family and relatives.

The Council of Europe Committee against Torture has recommended the following regarding visits during the epidemic:

Any restrictions on contact with the outside world, including visits, should be compensated for by increased access to alternative means of communication (such as telephone or Voice-over-

²⁰ DIGNITY has previously reported on these serious consequences of solitary confinement to the Minister and the Danish Parliament's Legal Affairs Committee and in other contexts. See also conclusions from the DIGNITY Conference on Solitary Confinement as Punishment 2017, the Parliamentary Ombudsman's Thematic Supervision Report 2019: Penal Cells of May 5, 2020 and Peter Scharff Smith and Jules Lobel, *Solitary Confinement - Effects, Practices, and Pathways toward Reform* (2020).

²¹ CPT report of January 7, 2020, p. 66: "The delegation was also informed that, due to the lack of suicide-proof clothing, detained migrants at risk of suicide were sometimes placed entirely naked in an observation room. In the view of the CPT, such a practice could be considered to amount to degrading treatment. The CPT urges the authorities to stop this practice. It recommends that persons are never placed naked in a room and that those at risk of suicide be always provided with (rip-proof) clothing appropriate to their specific needs."

²² University Post February 11, 2021.

²³ UN Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules Revised 2015): Rule 58 1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals: (a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and (b) By receiving visits. 2. Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. Procedures shall be in place and premises shall be made available to ensure fair and equal access with due regard to safety and dignity.

We wish to be informed whether new measures have been implemented to compensate for the limitations in the physical visits to Ellebæk and whether the detainees have the opportunity to achieve contact with the outside world in other ways.

In addition, for health reasons, there have been restrictions on the possibility of participating in joint activities in Ellebæk, such as sports and education. It is important that the authorities strike a reasonable balance between public health considerations and the mental well-being of the inmates. In some cases, for example, it may be possible to arrange activities for inmates who already share a physical community. We would therefore also like to know what activities are offered to inmates during the pandemic.

We look forward to receiving answers to the above-mentioned human rights issues, specific questions and recommendations. We are of course available for further questions, comments and dialog.

Sincerely yours

Rasmus Grue Christensen, CEO DIGNITY



Trine Christensen, Secretary General Amnesty International, Danish Section

Appendices:

- 1 DIGNITY's consultation response to the draft repatriation law of December 30, 2020.

²⁴ CPT Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, March 20, 2020, available at <https://rm.coe.int/16809cfa4b>



- 2 Amnesty International's consultation response to the draft repatriation law of December 22, 2020.
- 3 UPR joint report of October 15, 2020.
- 4 NGO joint report of March 11, 2019 to the CPT.

Copy sent to:

- Minister for Immigration and Integration Mattias Tesfaye.
- Ina Eliassen, Director of the Danish Prison and Probation Service.
- Charlotte Elisabeth Aagaard, Head of Institution Ellebæk and Sjælsmark.

Amnesty International
tchristensen@amnesty.dk
LBlinkenberg@amnesty.dk

DIGNITY - Danish Institute Against Torture
rgc@dignity.dk



**Udlændinge- og
Integrationsministeriet**

Dear Rasmus Grue Christensen and Trine Christensen

Thank you for your inquiry of February 17, 2021 regarding the conditions at the Immigration Center Ellebæk. As the inquiry concerns immigration policy issues, I have agreed with the Minister of Justice that I will answer it.

First of all, I would like to emphasize that I think the conditions for detained foreigners are an important discussion. I think it is important that relevant and critical questions are asked, as you have done in your inquiry. In my view, it is also important that independent eyes - including through the Council of Europe's Committee for the Prevention of Torture (CPT) - can come and evaluate how Danish authorities administer the conditions for foreigners deprived of their liberty. Therefore, the government is also happy to respond to the criticism and recommendations - both from you and from others. But at the same time, I must emphasize that it is the Danish government that ultimately makes the decisions about the conditions for foreigners in detention.

In this context, it is important to keep in mind that there are foreigners in Denmark who do not have legal residence and who refuse to cooperate with the authorities - this can be either about deportation or by refusing to disclose their asylum case. It is the government's clear position that foreigners without legal residence must leave the country as soon as possible, and that foreigners have a duty to cooperate with the authorities. Detention thus sends an important signal that it is not cost-free to refuse to cooperate with the authorities, just as it is a useful tool to motivate foreigners without legal residence to leave the country.

In the following, I will discuss the more concrete points of your request:

Conditions in the Immigration Center Ellebæk

The conditions for foreign nationals who are deprived of their liberty under the Aliens Act must of course be reasonable and must support the purpose of the deprivation of liberty. It is therefore also provided in the Aliens Act - and in the future Repatriation Act - that foreign nationals during detention are only subject to the restrictions in their

May 10, 2021

**Ministry of
Immigration and
Integration**

Slotsholmsgade 10
1216 Copenhagen K

Tel. 6198 4000
Email uim@uim.dk
Web www.uim.dk

CVR no. 36977191

Tel. 20 55 09 97
Email cbve@uim.dk

Case no. 2021 - 5502
File ID 1566928

necessary to ensure the purpose of the deprivation of liberty and the maintenance of order and security at the place of placement - in this case Udlændin-gecenter Ellebæk.

It is also important to remember that foreigners who are detained in the Immigration Center Ellebæk are detained because they either do not want to help leave the country or because they refuse to cooperate with the authorities.

The daily operation of the Immigration Center Ellebæk is handled by the Danish Prison and Probation Service (under the Ministry of Justice). As stated on several occasions, the Government believes that the conditions at the Ellebæk Immigration Center are basically in order.

As far as the physical conditions are concerned, I can refer to the fact that the Danish Prison and Probation Service has the task of maintaining the detention of foreigners placed in the Immigration Center Ellebæk, which naturally places some demands on the interior design. The choice of windows is an important parameter in the static security, so that the detainees cannot leave the buildings through windows. The older wings in Ellebæk were renovated in 2020 and a building with new spaces is currently under construction. In this context, careful consideration is being given to the appearance of the institution, with an emphasis on avoiding an institutional feel. The new spaces that are being established in Ellebæk will therefore also have windows without bars, with safety glass in an appropriate safety class and supplemented with an air curtain.

When it comes to the more day-to-day operations, I can refer to the Danish Prison and Probation Service's information that foreign nationals held in the Ellebæk Immigration Center have free access to a secured outdoor area of 12 m², just as there is a daily one-hour walk in a larger outdoor area where, among other things, football can be played. However, it should be noted that ball games are currently suspended due to the Covid-19 situation.

In addition, I can refer to the fact that the Minister of Justice in a previous answer to the People's Legal Affairs Committee (question no. 694 - general part) has stated that when foreigners in the Ellebæk Immigration Center do not have access to their own mobile phones, it is because, similar to what applies in the Prison and Probation Service's prisons and detention centers, there is a prohibition in the administrative rules against possession of mobile phones and similar communication equipment for detained foreigners in the immigration centers. The prohibition is based on security considerations, including a risk of escape. This does not mean that foreign nationals detained at the Ellebæk Immigration Center cannot maintain contact with their families. There is thus access to use a telephone, and I therefore believe that there is no basis for changing the administrative ban on mobile phones for foreign nationals accommodated at the Ellebæk Immigration Center.

Vulnerable foreigners

It is my opinion that consideration must of course be given to vulnerable foreign

nationals when the immigration authorities assess whether to detain them. Therefore, it is also explicitly stated in the future Repatriation Act that the authorities will have to show restraint when detaining vulnerable groups. It does not change the fact that situations may arise where it is necessary to detain vulnerable foreign nationals. The government will therefore not change this.

In addition, I think it is worth noting that all asylum seekers upon arrival in Denmark are offered a medical examination, which, among other things, can reveal whether they have been subjected to torture. In addition, an asylum seeker always has the opportunity to contact the accommodation facility's healthcare staff during the asylum seeker's treatment.

It should also be noted that in cases where an asylum seeker claims to have been subjected to torture during the processing of the asylum case, the Immigration Service or the Refugee Appeals Board may, if they consider it necessary to make a decision in the case, initiate a torture examination of the person concerned to determine whether he or she has been subjected to torture.

The immigration authorities therefore - in my opinion - have some pretty good tools to become acquainted with any vulnerable foreigners so that the necessary considerations can be taken into account. And when the immigration authorities become aware of information that a foreign national has been subjected to torture or is otherwise particularly vulnerable, there is also a legal basis for passing on the information between the authorities without the foreign national's consent. It is therefore also my clear expectation that the authorities disclose this information when relevant.

With regard to the use of less restrictive measures than imprisonment, I can inform you that the Home Travel Agency in each individual case makes an assessment of whether less restrictive measures are sufficient to ensure the foreign national's presence during deportation.

On this basis, a request to the police for detention is only initiated if Hjemrejsestyrelsen assesses that less intrusive measures are not sufficient to ensure the presence of the foreign national.

Therefore, an individual and concrete assessment is always made in each case based on the information in the case. In the assessment, special consideration is given to foreigners who are considered vulnerable. These include the seriously ill, the elderly, pregnant women, families with minor children and unaccompanied minors.

Duration of detention

It is explicitly stated in the legislation that detention must be used when the presence of the foreign national cannot be ensured by less intrusive measures. A foreign national will therefore be detained as a last resort and for the shortest possible period of time.

In this regard, I think it is worth noting that both the legality of the deprivation of liberty and its duration will always be reviewed by the courts. It is therefore my assessment that the current rules are in accordance with Denmark's international obligations.

Isolation etc.

With regard to the use of disciplinary sanctions, I have, among other things, in a reply to the Danish Parliament's Legal Affairs Committee to question no. 1748 - general part, stated that I will look into whether it is necessary to separately regulate disciplinary sanctions for detained foreigners without legal residence. This work has been initiated.

In addition, I can refer to the fact that the Prison and Probation Service has stated that the staff at the Immigration Center Ellebæk naturally focus on ensuring that the detainees are treated properly, just as the staff keep an eye on the detainees' physical and mental condition and that relevant healthcare professionals are called in if deemed necessary.

Observation room

The Danish Prison and Probation Service has a strong focus on preventing self-harming behavior among inmates. An inmate can thus be placed in an observation cell if there is a need for special observation. This can be done in order to prevent self-harm, among other things.

In connection with its visit, the CPT Committee recommended that prisoners' clothing should only be removed when required on the basis of an individual risk assessment, and that in such cases the prisoner should be provided with clothing and shoes that cannot be torn, contrary to previous practice.

Based on the committee's report, it has been emphasized that, in accordance with the rules, changing clothes may only be done when it is deemed necessary in each individual case.

The Danish Prison and Probation Service also continuously monitors the experiences of relevant countries in this area with a view to determining whether these experiences could be used in the Danish Prison and Probation Service.

COVID-19 restrictions

Like all other parts of society, Udlændingecenter Ellebæk has had to adapt life at the institutions to the Covid-19 situation.

I can thus refer to the fact that the Prison and Probation Service has stated that the degree to which the center has been operated as normal has varied. For example, it has for periods been possible to carry out various types of production tasks in the workshop and on the wards. All people with non-critical functions, including the educational assistants, have been sent home - therefore all other activities have been put on hold. In line with a reopening, the educational activities will also begin

again. Throughout the Covid-19 situation, the detainees have also had the opportunity to make phone calls, and they have received free calling cards from the immigration center and the priest associated with the center.

In conclusion, I would like to note that it is my opinion that the existing system for detained foreign nationals is reasonable and in line with the purposes of detention, including motivating an expelled foreign national or rejected asylum seeker to return home. Thus, in the government's view, there is still a need for a place like the Ellebæk Immigration Center.

Sincerely yours

A handwritten signature in blue ink, appearing to read 'Mattias Tesfaye', written in a cursive style.

Mattias Tesfaye



Ministry of Immigration and Integration
Slotsholmsgade 10
1216 Copenhagen K
Attn: The Minister of Immigration and Integration

Copenhagen, June 30, 2021

Dear Minister for Immigration and Integration Mattias Tesfaye,

DIGNITY - Danish Institute against Torture and Amnesty International would like to thank the Minister for Immigration and Integration for his letter of 10 May 2021 in response to our inquiry of 17 February 2021 about the immigration center Ellebæk. We greatly appreciate the Minister's attention to the conditions for detained foreigners staying at the immigration center Ellebæk.

We would like to request a meeting with the Minister after the summer vacation, as we have some follow-up and clarifying questions for the Minister, especially when it comes to vulnerable foreigners. In addition, we would very much like to assist the minister with our knowledge in the area - especially in relation to disciplinary sanctions.

Our organizations welcome the fact that the Minister has initiated work to assess whether it is necessary to separately regulate the use of disciplinary sanctions at Ellebæk, including the use of punishment cells.

Since the foreigners at Ellebæk are not suspects or convicted of criminal offenses, it is important that disciplinary punishments at Ellebæk are not regulated as in prisons, but instead based on the international standards for immigration detention centers. We have experience and knowledge in this area, gained through membership of the Council of Europe's Committee against Torture and the Danish National Preventive Mechanism. We are therefore happy to assist the Minister in finding a suitable model for regulating disciplinary sanctions at Ellebæk. It is important to keep in mind that there are vulnerable groups among the foreigners at Ellebæk and that health science research has concluded that isolation often has serious negative health consequences.

It is our hope that we can have a meeting at the end of August or the beginning of September where we can share our knowledge with the minister.

Sincerely yours

Rasmus Grue Christensen, CEO DIGNITY

Dan Hindsgaul, Acting Secretary General Amnesty International, Denmark

Ministry of Immigration and Integration
Slotsholmsgade 10
1216 Copenhagen K

Copenhagen, September 22, 2021

Dear Minister for Immigration and Integration Mattias Tesfaye

We thank you for the recent constructive meeting about Udlændingecenter Ellebæk. We are positive about your wish for a dignified and efficient exit system. It is crucial that Denmark helps people without legal residence or protection needs to leave Denmark, while at the same time treating all people with dignity and according to internationally recognized standards. As mentioned at the meeting, we have some points of criticism and recommendations for improving the conditions in Ellebæk.

We are pleased that you are receptive to our proposal to establish a working group on the disciplinary system in Ellebæk within the framework of the broader issue of foreigners deprived of their liberty. Inspiration for the terms of reference for such a group may be drawn from similar work in the institutions of the Danish Prison and Probation Service, cf. the report on service review of disciplinary punishments and other administrative reactions in prisons and local prisons.²⁵ We believe that an important task for the working group would be to assess whether it is necessary to separately regulate disciplinary sanctions for foreigners deprived of their liberty, as indicated in your letter of May 10, 2021.

In our opinion, a strict system of sanctions (including normal reaction forms from prisons) against foreigners who have not been convicted or charged with a crime does not harmonize with Denmark's international obligations. Not least the use of solitary confinement can have serious health consequences for the individual. We are, of course, happy to contribute with input to the establishment and implementation of a possible working group on a more dignified and effective sanction system for foreigners deprived of their liberty.

In addition, we would like to add to the discussion at the meeting that, according to our sources, there are still problems with passing on information about torture from the asylum authorities to Ellebæk. As discussed, our overall position is that torture survivors should not be detained at all. If such vulnerable persons are detained, there should at least be a thorough screening upon arrival at Ellebæk, and the individual assessment of the basis for detention should include all relevant information, including whether the person has previously been subjected to torture. We would therefore greatly appreciate concrete measures to ensure that information on signs of torture obtained by operators or immigration authorities during the asylum phase is made available to staff at Ellebæk with the consent of the detainee.

We are of course happy to provide our expertise in further discussions. Amnesty sends further comments, recommendations and questions on the dignity and efficiency of the Danish exit permit system, cf. your kind comment that we could forward this.

Sincerely yours

Rasmus Grue Christensen, CEO DIGNITY
Dan Hindsgaul, Acting Secretary General Amnesty International, Danish Section

²⁵ See the Danish Parliament's Legal Committee, <https://www.ft.dk/samling/20201/almindel/REU/bilag/139/2314581.pdf>