



Report of Various Size – Fieldwork research (FRANET)

Criminal Detention in the EU – Conditions and Monitoring

Country Report Denmark

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1. Cell space

- a) What is the national standard for cell space available to prisoners in m²? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

- a) The minimum cell space in prison facilities administered by the Danish Prison and Probation Service¹ (Kriminalforsorgen) is regulated in the Circular Letter No. 66 of 29 September 2011. For individual cells, the floor space shall be minimum six m² and for double cells, the floor space shall be minimum eight m².² The cell space differs in different prison and detention facilities and in general, newer facilities are typically equipped with more cell space for each prisoner. In the newly built prison, Storstrøms fængsel, the cell space is approximately 12 m² for each prisoner.³
- b) The same standards apply to all detention regimes.
- c) Inspection reports from the Danish NPM (The Parliamentary Ombudsman) in the period from 1 January 2015 to 1 May 2018, are available in Danish, at:
http://www.ombudsmanden.dk/find/?query=&mat_type=Tilsyn&aarstal=&myndighed=&inspektionstyp e=&inspektionsomraade=&sagsomraade=&forvrettemne=&viewmode=grid

There are no specific recommendations on cell space from the Danish NPM, in this period.

2. Sanitary Facilities

¹ The Danish Prison and Probation Service (Kriminalforsorgen) operates all prison facilities in Denmark. For more information in English, see: Kriminalforsorgen.dk: <http://www.kriminalforsorgen.dk/English-29.aspx>.

² Denmark, Circular Letter No. 66 of 29 September 2011 (*Cirkulæreskrivelse nr 66 af 29. september 2011 om størrelse af og udstyr af indsatte opholdsrum i kriminalforsorgens institutioner*), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=138658>

³ The Danish Prison and Probation Service, information available in Danish, at: <http://www.kriminalforsorgen.dk/N%C3%A5r-du-ankommer-7637.aspx>.

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do prisoners have access to these facilities without undue delay, even during the night? Do these facilities offer privacy to prisoners who use them?
- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities offer privacy to prisoners who use them?
- c) Is the provision of cleanly sanitary facilities regulated by any legal instrument such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*
- e) *Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

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Sanitary facilities in prison and detention facilities are not regulated in any legal instrument. Furthermore, no public guidelines or manuals on sanitary facilities is available. The conditions and standards of sanitary facilities varies from prison and detention facilities. Newer prison and detention facilities are in general considered to have better conditions and standards.

An overall review of reports from the Danish NPM shows that no particular criticism has been raised by the NPM regarding sanitary facilities in prison and detention facilities.⁴

3. Time out of cell

- a) What is the national standard set for time per day/week spent by prisoners outside of their cells:
 - a. Outdoors (within the boundary of the prison)?
 - b. Indoors in the common area?
- b) Are sports or other recreational and educational facilities available to prisoners? If so what types?
- c) Is time spent in cells regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*
- e) *Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These*

⁴ This conclusion is based on a review of the annual reports from 2015 from the Danish NPM, the Danish Parliamentary Ombudsman (Folketingets Ombudsmandsberetninger fra 2015 til 2017). For an overview of annual reports and inspection reports from the Danish NPM, see: The Parliamentary Ombudsman, information available in Danish, at: http://www.ombudsmanden.dk/find/?query=&mat_type=Tilsyn&aarstal=&myndighed=&inspektionstype=&inspektionsomraade=&sagsomraade=&forvrettemne=&viewmode=grid

reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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a) *Outdoors*

Prisoners in both prison and detention facilities have outdoor access minimum one hour a day.⁵

Indoors in the common area

Prisoners in most prisons and detention facilities have wide access to common areas and to association with other prisoners when they are not confined in their cell from 21.00 to 08.00 or engaged in other activities such as work, education or other recreational activities, cf. Section 33 of the Sentence Enforcement Act and the Ministerial order No. 415 of 9 April 2015.⁶ The right is not absolute as the Sentence Enforcement Act, Section 63 and 64, allows exclusion from association in up to 3 months in order to (1) prevent escape, criminal activity or violence, (2) take measure in order to ensure safety or avoid danger of infection or (3) if the prisoner demonstrates inadmissible behavior.⁷ In addition, prisoners can be imposed to solitary confinement in a number of cases (for more information see para. 4 below on solitary confinement).

b) Pursuant to the Sentence Enforcement Act, Section 38, and the Ministerial order No. 739 of 13 June 2017, post-trial prisoners have the right and duty to attend work, education or other approved activities for 37 hours a week (*Beskæftigelsespligt*).⁸ Exemption can be made in relation to short sentences.⁹

Prisoners in pre-trial detention only have access to work, cf. Section 38 (2) of the Sentence Enforcement Act.

In addition, prisoners have access to a number of recreational activities such as sport, hobby activities or library visits.¹⁰

⁵ Denmark, Sentence Enforcement Act No. 1491 of 13 December 2017 (*Straffuldbyrdelsesloven nr. 1491 af 13. December 2017*), Section 43 (3), (available in Danish, at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=194713>)

⁶ Denmark, Ministerial order No. 415 of 9 April 2015 (*Bekendtgørelse nr. 415 af 9. april 2015 om indsattes adgang til fællesskab m.v. med andre indsatte i kriminalforsorgens institutioner (fællesskabsbekendtgørelsen)*), available in Danish at: <https://www.retsinformation.dk/eli/ta/2015/41>.

⁷ For detailed information on the limit of access to common areas see: Dragsted, Ane, and Schiøler, Jakob. *Straffuldbyrdelsesloven Med Kommentarer*. 2. Udg. ed. København: Jurist- Og Økonomforbundets Forlag, 2017, p. 313 - 324.

⁸ Denmark, Ministerial order No. 739 of 13 June 2017 (*Bekendtgørelse om beskæftigelse m.v. af indsatte i kriminalforsorgens institutioner nr. 739 af 13. juni 2017*), Section 1, available in Danish, at: <https://www.retsinformation.dk/Forms/r0710.aspx?id=191977>.

⁹ Denmark, Sentence Enforcement Act No. 1491 of 13 December 2017 (*Straffuldbyrdelsesloven nr. 1491 af 13. December 2017*), Section 38 (2), available in Danish, at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=194713>.

¹⁰ Denmark, Sentence Enforcement Act No. 1491 of 13 December 2017 (*Straffuldbyrdelsesloven nr. 1491 af 13. December 2017*), Section 43 (2), available in Danish, at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=194713> and The Danish Prison and Probation Service, information available in Danish, at: <http://www.kriminalforsorgen.dk/Hverdag-i-f%C3%A6ngslet-7641.aspx>.

c) The Ministerial order No. 415 of 9 April 2015 on access to common areas regulates both pre- and post-trial prisoners' access to time out of cell in all prison and detention facilities administered by the Danish Prison and Probation Service.¹¹

d) Prisoners in closed prison facilities can be confined in their cells in the period from 21.00 to 08.00.¹² In 'Københavns Fængsler' (Copenhagen detention facilities) prisoners can be confined in the cell for 24 hours¹³, if it is not possible to establish access to common areas in accordance with Sections 11 – 17 of the Ministerial order.¹⁴

In open prison facilities, prisoners can be confined in the cell in the period from 21.00 to 08.00, if it is considered appropriate in order to ensure order and security. In the remaining period, prisoners have access to the common area in accordance with the rules set out in Section 7 of the Ministerial order No. 415 of 9 April 2015.

e) For an overview of inspection reports from the Danish NPM in the period from 1 January 2015 to 1 May 2018, see: The Parliamentary Ombudsman, information available in Danish, at: http://www.ombudsmanden.dk/find/?query=&mat_type=Tilsyn&aarstal=&myndighed=&inspektionstyp e=&inspektionsomraade=&sagsomraade=&forvrettemne=&viewmode=grid

The national NPM visited the closed prison facility 'Sønder Omme Fængsel' on 21 and 22 August 2017. The NPM recommended among others that the management of the facility should consider following:

*"At ledelsen er opmærksom på, at de indsatte, som er tvangsmæssigt udelukket fra fællesskabet, får mulighed for beskæftigelse."*¹⁵

Summary: The management should be mindful that prisoners who are excluded from association are still able to participate in work, education or other recreational activities.

4. Solitary confinement

- a) What is the national standard set regarding solitary confinement? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the

¹¹ Denmark, Ministerial order No. 415 of 9 April 2015 (*Bekendtgørelse nr. 415 af 9. april 2015 om indsattes adgang til fællesskab m.v. med andre indsatte i kriminalforsorgens institutioner (fællesskabsbekendtgørelsen)*), available in Danish at: <https://www.retsinformation.dk/eli/ta/2015/415>.

¹² Section 6 of the ministerial order No. 415 of 9 April 2015

¹³ Section 6 (2), the ministerial order No. 415 of 9 April 2015

¹⁴ Denmark, Ministerial order No. 415 of 9 April 2015 (*Bekendtgørelse nr. 415 af 9. april 2015 om indsattes adgang til fællesskab m.v. med andre indsatte i kriminalforsorgens institutioner (fællesskabsbekendtgørelsen)*), available in Danish at: <https://www.retsinformation.dk/eli/ta/2015/415>

¹⁵ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Sønder Omme Fængsel den 21. og 22. august 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_sonder_omme_faengsel/pdf

exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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- a) In Denmark, the following four types of isolation are regulated by the Sentence Enforcement Act¹⁶ and subsequent ministerial orders:
1. Exclusion from association, cf. the Sentence Enforcement Act Section 63. Exclusion from association limits the prisoner's access to association with other prisoners, but the prisoner can still to some degree participate in work, education or other recreational activities. Exclusion from association in order to (1) prevent escape, criminal activity or violence, (2) take measure in order to ensure safety or avoid danger of infection or (3) if the prisoner demonstrates inadmissible behavior. Exclusion from association may not extend more than 3 months, unless extraordinary circumstances exist.
The use of exclusion from association, access to information and procedural rights are regulated in detail in the Ministerial order no. 429 of 9 April 2015 on the use of exclusion from association.¹⁷ In the recent years, there has been a drop in the use of exclusion from association from 751 cases in 2010 to 484 cases in 2016. Of the cases in 2016, 137 cases was between 1 - 3 days, 125 cases was between 4-7 days, 123 cases was between 8-14 days, 70 cases was between 15-28 days and 29 was for more than 28 days.¹⁸
 2. Voluntary exclusion from association, cf. the Sentence Enforcement Act Section 33. A prisoner can choose to be excluded from association. If a prisoner chooses so, the prisoner will be excluded completely from association or placed in a special department with limited association.¹⁹ Prisoners have the right to revoke the decision at any time, cf. Section 33 of the Sentence Enforcement Act.
 3. Isolation in a security cell, possibly under forced physical restraint, cf. the Sentence Enforcement Act Section 66. The use of security cell is in detail regulated in the Ministerial order no. 1111 of 17 August 2016 on the use of security cell.²⁰ There are no fixed time limits on the use of security cell in general, but the duration shall be as short as possible, cf. section 66 of the Sentence

¹⁶ Denmark, Sentence Enforcement Act No. 1491 of 13 December 2017 (*Straffuldbyrdelsesloven nr. 1491 af 13. December 2017*), available in Danish, at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=194713>

¹⁷ Denmark, Ministerial order no. 429 of 9 April 2015 on exclusion from association (*Bekendtgørelse nr. 429 af 9. juni 2015 om udelukkelse af indsatte fra fællesskab, herunder anbringelse i observationscelle m.v., i fængsler og arresthuse (bekendtgørelse om udelukkelse fra fællesskab)*), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=181979>.

¹⁸ Denmark, The Prison and Probation Service, Statistic 2016 (*Kriminalforsorgen Statistik 2016*), available in Danish at: <http://www.kriminalforsorgen.dk/%C3%85rlige-statistikberetninger-7541.aspx>.

¹⁹ Dragsted, Ane, and Schiøler, Jakob. *Straffuldbyrdelsesloven Med Kommentarer*. 2. Udg. ed. København: Jurist- Og Økonomforbundets Forlag, 2017, p. 159.

²⁰ Denmark, Ministerial order No. 1111 of 17 August 2016 on the use of security cell (*Bekendtgørelse nr. 1111 of 17 August 2016 om anvendelse af sikringsmidler i kriminalforsorgens institutioner*), available in Danish at:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=183550> and for information on the use of security cell: Dragsted, Ane, and Schiøler, Jakob. *Straffuldbyrdelsesloven Med Kommentarer*. 2. Udg. ed. København: Jurist- Og Økonomforbundets Forlag, 2017, pp. 338 - 345.

Enforcement Act. Furthermore, isolation in a security cell under forced physical restraint may only in special circumstances exceed 24 hours, cf. Section 8 of the Ministerial order. In 2016, security cell was used in 263 cases. 86 % of these were under forced physical restraint. In 50 % of the cases, the use of security cell was for less than six hours and only in 4 cases was it used for 3 or more days.²¹

4. Isolation as a disciplinary sanction, cf. the Sentence Enforcement Act Section 68. The maximum duration for isolation as a disciplinary measure is four weeks, cf. the Sentence Enforcement Act Section 70. The use of isolation as a disciplinary sanction, access to information and procedural rights are in detail regulated in the Ministerial order no. 1036 of 23 June 2016.²² There has been an increasing use of isolation as a disciplinary sanction in recent years. From 1289 cases in 2001 to 2995 cases in 2016.²³

Exclusion from association in accordance with the Administration of Justice Act Section 770a. Prisoners can be excluded from association if there are particular reasons to assume that pre-trial detention in itself is insufficient to prevent obstruction of legal proceedings or collusion. The use of exclusion from association, including conditions, procedure and durations, are in detail regulated in Sections 770a – 770d of the Act.

- b) The Danish Sentence Enforcement Act, the Administration of Justice Act and subsequent ministerial orders regulate the use of all types of solitary confinement in facilities administered by the Danish Prison and Probation Service.

Juveniles placed in prison facilities administered by the Prison and Probation Service are subjected to the same rules as adults on solitary confinement pursuant to the Administration of Justice Act and the Sentence Enforcement Act as mentioned above, but with lower time limits.²⁴

- c) For an overview of inspection reports from the Danish NPM in the period from 1 January 2015 to 1 May 2018, see: The Parliamentary Ombudsman, information available in Danish, at: http://www.ombudsmanden.dk/find/?query=&mat_type=Tilsyn&aarstal=&myndighed=&inspektionstyp e=&inspektionsomraade=&sagsomraade=&forvrettemne=&viewmode=grid

The national NPM visited the prison facility 'Nyborg Fængsel' on 26 January 2017. The NPM recommended among others that the management of the facility should consider the following:

²¹ Denmark, The Prison and Probation Service, Statistic 2016 (Kriminalforsorgen Statistik 2016), available in Danish at: <http://www.kriminalforsorgen.dk/%C3%85rlige-statistikberetninger-7541.aspx>.

²² Denmark, Ministerial order No. 1036 of 23 June 2016 on disciplinary punishment (*Bekendtgørelse nr. 1036 af 23. juni 2016 om udståelse af strafcelle, anvendelse af forhørselle og behandlingen af disciplinærsager (disciplinærstrafbekendtgørelsen)*), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=181979>.

²³ Denmark, The Prison and Probation Service, Statistic 2016 (Kriminalforsorgen Statistik 2016), available in Danish at: <http://www.kriminalforsorgen.dk/%C3%85rlige-statistikberetninger-7541.aspx>.

²⁴ Denmark, the Administration of Justice Act, Consolidated Act No. 1101 of 22 September 2017 with amendments (*Retsplejeloven, lovbekendtgørelse nr. 1101 af 22. september 2018 med senere ændringer*), section 770c available in Danish at: <https://www.retsinformation.dk/forms/R0710.aspx?id=192286>. Denmark, the Administration of Justice Act, Consolidated Act No. 1101 of 22 September 2017 with amendments (*Retsplejeloven, lovbekendtgørelse nr. 1101 af 22. september 2018 med senere ændringer*), available in Danish at: <https://www.retsinformation.dk/forms/R0710.aspx?id=192286>.

“At områdekontoret gennemgår de 14 sikringscellerapporter, som Nyborg Fængsel har fremsendt til ombudsmanden, og over for ombudsmanden redegør for, hvad gennemgangen giver anledning til.”²⁵

Summary: The Regional Office of the Prison and Probation Service should consider reviewing the 14 reports on the use of security cell which Nyborg Fængsel has submitted to the Parliamentary Ombudsman, and should explain to the Ombudsman what this review gives rise to.

5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons? (E.g. do prisoners have prompt access to medical services within prisons or externally? Do prisoners have access to dentists and opticians?)
- b) Are there any special provisions relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly prisoners, the mentally ill, drug addicted prisoners etc.)
- c) Is access to healthcare in prisons regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes.
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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- a) Prisoners' access to health care is regulated by the Act on Health Care²⁶, the Sentence Enforcement Act and the Ministerial order no. 399 of 9 June 2015 on prisoners' access to health care in Danish prison facilities.²⁷ In accordance with the Act on Health Care, prisoners are exempted from certain health care services (prisoners cannot access a medical practice et cetera outside the prison facility), but are otherwise entitled to enjoy regular access to health care.²⁸ The Ministerial order regulates the access for prisoners to be examined and treated by a doctor, psychiatrist or dentist. Typically, the prison facilities have in-house medical staff such as doctors, psychiatrists and dentists.

²⁵ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Nyborg Fængsel den 26. januar 2017:

http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_nyborg_faengsel/pdf. For more information regarding this specific solitary confinement case, see: Denmark, The Parliamentary Ombudsman, Ombudsmanden rejser spørgsmål om

behandling af 15-17-årige indsatte i kriminalforsorgen, available in Danish, at:

http://www.ombudsmanden.dk/find/nyheder/alle/unge_indsatte_i_kriminalforsorgen/nyhed.

²⁶ Denmark, the Act on Health, Consolidated Act No. 191 of 28 February 2018 with amendments (*Sundhedsloven, lovbekendtgørelse nr. 191 af 28. februar 2014 med senere ændringer*) available in Danish at:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=199871>.

²⁷ Denmark, Ministerial order No. 399 of 9 April 2015 on Prisoners' Access to Health Care in Danish prison facilities (*Bekendtgørelse nr. 399 af 9. april 2015 om sundhedsmæssig bistand til indsatte i kriminalforsorgens institutioner*), available in Danish at: <https://www.retsinformation.dk/eli/fta/2015/399>.

²⁸ Retsudvalget 2017-18, REU Alm.del endeligt svar på spørgsmål 479:

<http://www.ft.dk/samling/20171/alm.del/reu/spm/476/svar/1476887/1873386/index.htm>.

- b) Prisoners have access to treatment of somatic diseases and mental illnesses. Typically, prisoners will be granted access to the local hospital or be placed in the special hospital section at Vester fængsel for treatment of somatic diseases or at Herstedvester Fængsel for treatment of mental illnesses.²⁹
In addition, prisoners have access to treatment of drug addiction and alcohol abuse, anger management and specialized treatment for young criminals. Prisoners under treatment will typically be placed in special treatment units.³⁰
- c) Prisoners' access to health care is regulated by the Act on Health Care, the Sentence Enforcement Act as well as a number of subsequent ministerial orders.
- d) The rules on prisoners' access to health care applies to prisoners in all facilities administered by the Prison and Probation Service.
- e) For an overview of inspection reports from the Danish NPM in the period from 1 January 2015 to 1 May 2018, see: The Parliamentary Ombudsman, information available in Danish, at: http://www.ombudsmanden.dk/find/?query=&mat_type=Tilsyn&aarstal=&myndighed=&inspektionstyp e=&inspektionsomraade=&sagsomraade=&forvrettemne=&viewmode=grid.

The national NPM visited the closed prison facility 'Sønder Omme Fængsel' on 21 and 22 August 2017. The NPM recommended among others that the management of the facility should consider the following:

"At der kommer øget fokus på medicinbehandling, så denne lever op til kravene i Sundhedsstyrelsens vejledninger: <https://www.retsinformation.dk/Forms/R0710.aspx?id=168156> og <https://stps.dk/da/udgivelser/2011/~media/9B52FC784C60492882991BF6543431C7.ashx>. Herunder at det sikres, at der ikke opbevares omhældt medicin uden korrekt markering, at der kun er én p.n.-dosering i hver pose, og at der føres kontrol med og log over temperaturen i køleskabet."³¹

Summary: Ensure increased focus on the handling of medicine in order to meet the conditions set out in the guidelines of the Danish Health Authority.

"At der kommer øget fokus på journalføring, så denne lever op til kravene i Sundhedsstyrelsens vejledninger: <https://stps.dk/da/sundhedsprofessionelle-ogmyndigheder/autorisation/autorisation-og-pligter/journalfoering/> Herunder at det sikres, at journalnotater markeres med navn og titel på den, der har skrevet notatet."³²

²⁹ The Danish Prison and Probation Service, information available in Danish, at: <http://www.kriminalforsorgen.dk/Hverdag-iff%C3%A6ngslet-7641.aspx>.

³⁰ Denmark, Sentence Enforcement Act No. 1491 of 13 December 2017 (*Straffuldbyrdelsesloven nr. 1491 af 13. December 2017*), Section 45a, available in Danish, at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=194713>. For more information, see also: The Danish Prison and Probation Service, information available in Danish, at: <http://www.kriminalforsorgen.dk/Behandling-7093.aspx>.

³¹ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Sønder Omme Fængsel den 21. og 22. august 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_sonder_omme_faengsel/pdf.

³² Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Sønder Omme Fængsel den 21. og 22. august 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_sonder_omme_faengsel/pdf.

Summary: Ensure increased focus on medical record keeping in order to meet the conditions set out in the guidelines of the Danish Health Authority.

"At det sikres, at kommunikationen mellem læge og personale i fængslet kan foregå, uden at der udveksles personfølsomme oplysninger via usikker mail."³³

Summary: Ensure that communication between the medical doctor and prison facility staff can take place without personal information being exchanged via an unsafe e-mailsystem.

The national NPM visited the detention facility 'Kolding Arrest' on 30 Marts 2017. The NPM recommended among others that the management of the facility should consider the following:

"At sundhedspersonalet har særligt fokus på mindreåriges behov for sundhedsbetjening, herunder at der følges op på iværksatte sundhedsmæssige tiltag."³⁴

Summary: The healthcare staff should have special focus on the need for health care for minors placed in prison facilities, including a follow up mechanism on health related initiatives.

"At der foretages et tættere sundhedsmæssigt tilsyn med/opfølgning af indsatte, som er udelukkede fra fællesskab, uanset hvad baggrunden for udelukkelsen er."³⁵

Summary: That there is a closer health related supervision of prisoners excluded from association, regardless of the reasons for exclusion.

The national NPM visited the detention facility 'Herning Arrest' on 8 June 2017. The NPM recommended among others that the management of the facility should consider the following:

"At lægen finder en alternativ og af Sundhedsstyrelsen godkendt metode til at tilgå sundhedsdata for de indsatte i regionens fængsler og arresthuse."³⁶

Summary: The doctor should find an alternative method which is approved by the Danish Health Authority to access prisoners' health data in prison and detention facilities in the Region. The national NPM visited the detention facility 'Maribo Arrest' on 2 February 2017. The NPM recommended among others that the management of the facility should consider the following:

"At der kommer større fokus på de indsattes ret til en indledende lægeundersøgelse, jf. § 7 i bekendtgørelse nr. 399 af 9. april 2015 om sundhedsmæssig bistand til indsatte i kriminalforsorgens institutioner."³⁷

³³ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Sønder Omme Fængsel den 21. og 22. august 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_sonder_omme_faengsel/pdf.

³⁴ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg den 30. marts 2017 i Kolding Arrest, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/koldingarrest/pdf.

³⁵ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg den 30. marts 2017 i Kolding Arrest, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/koldingarrest/pdf.

³⁶ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Herning Arrest den 8. juni 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_herning_arrest/pdf.

³⁷ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Maribo Arrest den 2. februar 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/maribo_arrest/pdf.

Summary: Ensure increased focus on prisoners right to preliminary medical examinations, cf. Section 7 of the Ministerial order No. 399 of 9 April 2015 on Prisoners' Access to Health Care in Danish prison facilities.

"At der kommer større fokus på varetægtsarrestanters ret til at tilkalde egen læge, jf. § 3 bekendtgørelse nr. 399 af 9. april 2015 om sundhedsmæssig bistand til indsatte i kriminalforsorgens institutioner."³⁸

Summary: Ensure increased focus on prisoners right to summon the prisoners' personal doctor, cf. Section 3 of the Ministerial order No. 399 of 9 April 2015 on Prisoners' Access to Health Care in Danish prison facilities.

"At der udvises større omhu ved udfyldelse af samtykkeerklæringer til udlevering af helbredsoplysninger."³⁹

Summary: The prison staff should demonstrate greater dedication in filling out statements of consent concerning the extraction of health information.

6. Special measures in place to protect juvenile prisoners.

- a) Are there any legal instruments, such as a legislative act, internal prison regulations, manuals, policy papers etc. regulating the separation of juvenile prisoners from adults? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)
- b) What age category falls under this specific juvenile prison regime?
- c) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- d) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

- a) Pursuant to the Sentence Enforcement Act, Section 78 (2) and (4), juveniles in pre-trial detention should not be placed in prison facilities administered by the Prison and Probation Service. If necessary, juveniles can as an exemption be placed in a detention facility near the residence of the juvenile in question.⁴⁰

In accordance with Section 78 (2) and (4) of the Sentence Enforcement Act, juveniles who are sentenced to imprisonment shall be placed outside of prison unless critical reasons demand

³⁸Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Maribo Arrest den 2. februar 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/maribo_arrest/pdf.

³⁹ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Maribo Arrest den 2. februar 2017, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/maribo_arrest/pdf.

⁴⁰ Denmark, Ministerial order on juveniles aged 15 -17 years placed in facilities administered by the Prison and Probation Service no. 499 of 17 May 2018 (*Bekendtgørelse om behandlingen af 15-17 årige, der anbringes i kriminalforsorgens institutioner nr. 499 af 17. maj 2018*), Section 1, available in Danish, at: <https://www.retsinformation.dk/eli/ta/2018/499>.

otherwise. Juveniles will typically be placed in an institution which is not part of the Prison and Probation Service or in one of the Prison and Probation Service's pensions. In the exceptional case where such placement is not deemed suitable and the juvenile does not qualify for home detention with an electronic foot shackle, the juvenile will serve the sentence in a special section for young people in a prison (Jyderup Fængsel).⁴¹ If deemed vital for the juvenile to keep in contact with family and/or attend an educational institution, the juvenile can be placed in a regular prison facility.⁴² Juveniles shall have the opportunity to association with other juvenile offenders separated from other inmates, cf. the Ministerial order on juveniles aged 15 -17 years placed in facilities administered by the Prison and Probation Service, Section 2 (3), Section 3, Section 5 and Section 9.

If a juvenile is placed in a prison or detention facility administered by the Prison and Probation Service, a treatment programme shall be initiated focusing on educational or other recreational activities based on the juveniles wishes and motivation, cf. the Ministerial order on juveniles aged 15 -17 years placed in facilities administered by the Prison and Probation Service, Section 12.

Pursuant to the Ministerial order on juveniles aged 15 -17 years placed in facilities administered by the Prison and Probation Service, Section 13, juveniles shall have daily access to two hours of physical activities, including one hour access to outdoor areas.

- b) Juveniles aged 15 – 17 years. The minimum age of criminal responsibility is 15 years⁴³ and consequently juveniles under the age of 15 who have committed a crime are subjected to the Danish Act on Social Services.⁴⁴
- c) Juveniles who are placed in prison facilities administered by the Prison and Probation Service are subjected to the rules on penal sanctions, including solitary confinement, in accordance to the Administration of Justice Act and the Sentence Enforcement Act. Juveniles who are placed outside prison facilities administered by the Prison and Probation Service are subjected to the the Consolidated Act on Adult Responsibility for Children in Places of Care, Section 14, which has much stricter limits on the use of solitary confinement and a maximum for four hours.⁴⁵
- d) For an overview of inspection reports from the Danish NPM in the period from 1 January 2015 to 1 May 2018, see: The Parliamentary Ombudsman, information available in Danish, at: http://www.ombudsmanden.dk/find/?query=&mat_type=Tilsyn&aarstal=&myndighed=&inspektionstyp e=&inspektionsomraade=&sagsomraade=&forvretemme=&viewmode=grid.

⁴¹ Denmark, Ministerial order on juveniles aged 15 -17 years placed in facilities administered by the Prison and Probation Service, Section 4.

⁴² Denmark, Ministerial order on juveniles aged 15 -17 years placed in facilities administered by the Prison and Probation Service, Section 5.

⁴³ Section 15 in: Denmark, the Criminal Code, Consolidated Act No. 997 of 9 August 2017 (*Straffeloven, lovbekendtgørelse nr. 997 af 9. august 17*), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=19208>.

⁴⁴ Denmark, the Act on Social Services, Consolidated Act No. 102 of 29 January 2018 with amendments (*Serviceoven, lovbekendtgørelse nr. 108 af 29. Januar 2018 om social service med senere ændringer*), available in Danish at: <https://www.retsinformation.dk/forms/R0710.aspx?id=197036>.

⁴⁵ Denmark. The Act on Adult Responsibility for Children in Places of Care, Consolidated Act no. 507 of 2 May 2015 (*Bekendtgørelse af lov om voksenansvar for anbragte børn og unge nr. 507 af 2. maj 2015*), Section 14, available in Danish, at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=186504>.

The national NPM visited the detention facility 'Kolding Arrest' on 30 Marts 2017. The NPM recommended among others that the personal of the facility should consider following:

"At sikre, at arresthusets personale har kendskab til de regler, der gælder for 15-17 årige indsatte, når de modtager en mindreårig."⁴⁶

Summary: Ensure that the staff of the detention facility knows the rules concerning minors aged 15-17 years placed in the facility.

7. Special measures in place to protect prisoners from violence

- a) Are any special measures in place to protect prisoners against violence, including sexual violence? (E.g. are prisoners supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do prisoners have access to a complaints mechanism?)
- b) Are there any special measures in place to protect LGBTI prisoners, who are particularly vulnerable to violence/sexual violence?
- c) Are these measures regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.)...
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of--designated-npmby-regions-and-countries/>

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- a) Security in the Danish Prison and Probation Service institutions is based on a static security approach (walls, locks and CCTV in the common areas and outdoors) and a dynamic security approach (relational work focusing on constructive interaction between prison guards and prisoners) in order to prevent threats and violence.⁴⁷ In addition, the prison staff has a number of coercive measures available, including disciplinary punishment such as fines, solitary confinement and other forcible means.

The Prison and Probation Service do not have public information on the regulation or policy considerations concerning the prevention of sexual violence in prison. Prisoners who feel that their security is threatened can file a general complaint to the prison administration or alternatively file a police report if the threat amounts to a criminal offence. A number of surveys conducted from 2013 - 2015 showed that approximately 13 – 17 % of all prisoners in prison facilities administered by the Prison and Probation Service at some point had experienced threats or violence while in prison. The

⁴⁶ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg den 30. marts 2017 i Kolding Arrest, available in Danish, at: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/koldingarrest/pdf.

⁴⁷ For more information, see: Kriminalforsorgen, available in Danish, at: <http://www.kriminalforsorgen.dk/Regler-og-sikkerhed-5746.aspx>.

surveys also found, that the Prison and Probation Service only received complaints about violence from 2-3 % of all prisoners.⁴⁸

- b) The Prison and Probation Service do not have public information on the regulation or policy considerations concerning the protection of LGBTI prisoners.
- c) The use of coercive measures is regulated by the Sentence Enforcement Act⁴⁹ and the Ministerial order on coercive measures⁵⁰ The overall security management is governed by internal policies.
- d) The level of security and the security approach differs in the various prison facilities, depending on the security assessment of the prison population and whether it is an open or closed prison. The Prison and Probation Service has categorised all prison and detention facilities into four security categories. The categories are not described in detail but relate to the intensity of security measures, extent of visitations, technical equipment in the prison facility and access control of visitors.⁵¹
- e) For an overview of inspection reports from the Danish NPM in the period from 1 January 2015 to 1 May 2018, see: The Parliamentary Ombudsman, information available in Danish, at: http://www.ombudsmanden.dk/find/?query=&mat_type=Tilsyn&aarstal=&myndighed=&inspektionstype=&inspektionsomraade=&sagsomraade=&forvrettemne=&viewmode=grid

The national NPM visited the closed prison facility 'Sønder Omme Fængsel' on 21 and 22 August 2017. The NPM recommended among others that the personal of the facility should consider the following:

*"At ledelsen i samarbejde med sygeplejerskerne forsøger at afdække mørketallet i relation til vold og trusler mellem indsatte."*⁵²

Summary: The management should in cooperation with the health care staff seek to identify dark figures in relation to threats and violence amongst prisoners.

⁴⁸ Direktoratet for Kriminalforsorgen, Kriminalforsorgens brugerundersøgelse 2015, Indsattes udsathed og tilbøjelighed til at anmelde overgreb, 2015, available in Danish, at: <http://www.ft.dk/samling/20161/almdel/REU/bilag/183/1726464/index.htm>. For an in depth analysis of threats and violence in Danish prison facilities, see also: Smith, P.S. & Minke, L.K., *Trusler og vold i danske fængsler og arresthuse*, Krim-50 Års Kriminalpolitik, 2017, available in Danish, at: https://www.researchgate.net/profile/Peter_Smith155/publication/324248075_Trusler_og_vold_i_danske_faengsler_og_arresthuse/links/5ac73cc74585151e80a39701/Trusler-og-vold-i-danske-faengsler-og-arresthuse.pdf.

⁴⁹ Denmark, Sentence Enforcement Act No. 1491 of 13 December 2017 (*Straffuldbyrdelsesloven nr. 1491 af 13. December 2017*), chapter 11, available in Danish, at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=194713>.

⁵⁰ Ministerial order on the use of coercive measures towards prisoners in the institutions of the Prison and Probation Service No. 296 of 28 March 2017 (*Bekendtgørelse nr. 296 af 28. marts 2017 om anvendelse af magt over for indsatte i kriminalforsorgens institutioner (magtanvendelsesbekendtgørelsen)*) available in Danish at: <https://www.retsinformation.dk/Forms/r0710.aspx?id=188246>

⁵¹ The categorisation of the prison and detention facilities can be found at: Retsudvalget, 2017-18, REU Alm.del endeligt svar på spørgsmål nr. 248, available in Danish <http://www.ft.dk/samling/20171/almdel/reu/spm/248/svar/1453209/1835558/index.htm>.

⁵² Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Sønder Omme Fængsel den 21. og 22. august 2017: http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_sonder_omme_faengsel/pdf.

The national NPM visited the prison facility 'Hillerød Arrest' on 26 April 2017. The NPM recommended among others that the personal of the facility should consider the following:

*"At ledelsen - på den måde ledelsen finder mest relevant - sikrer, at der kun anvendes lovlige magtmidler i overensstemmelse med straffuldbyrdsloven og magtanvendelsesbekendtgørelsen"*⁵³

Summary: The management should ensure that only legitimate coercive measures are used in accordance to the Sentence Enforcement Act and the Ministerial order on the use of coercive measures towards prisoners.

*"At ledelsen sikrer, at den skriftlige dokumentation i forbindelse med magtanvendelse og andre indgreb er dækkende"*⁵⁴

Summary: In relation to the use of coercive measures, the management should ensure that the written documentation is sufficient.

8. Responsible authorities

- a) What authority is responsible for the provision of additional information requested under Article 15 of the EAW Framework Decision? (Please specify whether there a central authority deals with these requests, if yes, please provide contact details, such as the name of the institution, a website, physical and email addresses, and a telephone number. In the absence of a central authority, who deals with those requests?)
- b) What authority is responsible for monitoring conditions of detention and putting forward recommendations?

Please cite any relevant sources

- a) It follows from the Danish Act on Extradition Section 18 b that it is the local police at the location of the person whom the arrest warrant is issued against who make a preliminary assessment of whether supplementary information is needed in order to execute the warrant.⁵⁵ Following this assessment, the police refers the case to the Director of Public Prosecutions who renders a decision on the matter.⁵⁶ The Director of Public Prosecutions' contact information is available at: <https://www.anklagemyndigheden.dk/en/director-of-public-prosecutions>.

⁵³Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Hillerød Arrest Den 26. april 2017:

http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_hillerod_arrest/pdf.

⁵⁴ Denmark, The Parliamentary Ombudsman, Tilsynsbesøg i Hillerød Arrest Den 26. april 2017:

http://www.ombudsmanden.dk/find/inspektioner/alle_inspektioner/tilsynsbesog_i_hillerod_arrest/pdf.

⁵⁵ Denmark, the Act on Extradition, Consolidated Act No. 833 of 25 August 2005 with amendments (lov om udlevering af lovovertrædere, lovbekeendtgørelse nr. 833 af 25 august 2005 med senere ændringer), available in Danish at:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=2161>.

⁵⁶ Denmark, Ministerial order No. 483 of 24 May 2016 Section 1, pursuant to which the Ministry of Justice has referred its authority relating to the Extradition Act to the Director of Public Prosecutions (Bekendtgørelse nr. 483 af 24. maj 2016 om 9. april 2015 om overførsel af kompetence fra Justitsministeriets departement til anklagemyndigheden i sager om udlevering og fuldbyrdelse af visse strafferetlige afgørelser m.v), available in Danish at:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=180248>.

- b) The Danish Parliamentary Ombudsman has the mandate to initiate inspections of all places of detention.

In addition, the Parliamentary Ombudsman, The Danish Institute for Human Rights (Denmark's NHRI) and DIGNITY – Danish Institute Against Torture (a Danish NGO) conduct regular inspections in places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment pursuant to the Optional Protocol to the Convention against Torture (OPCAT).