

Annex 2 NGOs' UPR mid-term report

Information about deportation center Kærshovedgård

Background

Kærshovedgård deportation center, which is located in Central Jutland and approximately 13 kilometers from the nearest town, opened in 2016. The Danish Immigration Service is responsible for the center which is operated by the Danish Prison and Probation Service (DPPS).

The day-to-day operations are handled by staff who are not trained from prisons and who do not have authority to use force, as well as staff from the Red Cross. The police are present at the center. The Red Cross is responsible for the health services at the center, as well as for organizing activities for the residents who co-operate with their return and the group on tolerated stay.

In November 2023, some 220 foreigners resided at the center.

The center receives foreigners without children who do not have legal residence in Denmark. The largest groups are rejected asylum seekers and persons sentenced to deportation, some of whom are on tolerated stay. Most cannot (e.g., persons on tolerated stay) or do not wish to travel because they have family in Denmark or they fear for the consequences if returning home.

The purpose of using the center is to motivate residents to return home.

The authorities' decision to place a foreigner at Kærshovedgård is administrative and cannot be appealed.

Residents are not deprived of their liberty formally (i.e., based on a judicial or an administrative decision), but they must live at the center (residence obligation), report to the center daily or three times a week (reporting obligation) and notify the center of absences (notification obligation).

Thus, they are subjected to these three obligations that de facto limit their freedom of movement.

If residents do not fulfil these obligations, it would be considered an offense and severe penalties are imposed. The penalties follow a scheme. For example, a resident is assumed to be penalized with 60 days imprisonment for six-nine offences committed in one month and three months imprisonment the second time. In particularly aggravating circumstances (e.g. long absences), the penalty can be up to four years imprisonment.

The obligations are fulfilled by the foreigner registering both electronically and manually at the center.

Foreigners who are suspected of repeatedly violating the control obligations can be remanded in custody in accordance with section 15 of the Danish Repatriation Act. This is in contrast to pre-trial detention of suspects who have legal residence in Denmark which is regulated by section 762 of the Danish Administration of Justice Act – according to which very different requirements apply.

Many of the foreigners at Kærshovedgård live in double rooms. They are not entitled to be offered activities, cf. Section 30 of the Danish Repatriation Act. They are offered meals at fixed times.

Current challenges

General conditions

Since its inauguration eight years ago, the conditions have continuously deteriorated in our view.

The stay at Kærshovedgaard is for many experienced as hopeless and intolerable, characterized by violence between residents – of whom many are drug addicts. There is no possibility of being transferred to another center, unless there is a need for specialized care that cannot be met at Kærshovedgaard.

The Ombudsman recently visited Kærshovedgaard within the mandate of the National Preventive Mechanism. Focus of the visit was specifically persons on tolerated stay. The Ombudsman's report is expected later in 2024).

High penalty levels

Moreover, as mentioned above, the penalty level for violating the three obligations regarding residence and movement (see above) is high, even for minor violations. The level of penalties has even increased over the years.

Compliance with the obligations was monitored through the use of an electronic registration system - the Salto system, now called AMS, until December 2020 when it was suspended by the Director of Public Prosecutions due to the extent and nature of the irregularities found. Arrestees and remand prisoners whose cases were based on the Salto system were released and information from the Salto system could not be included in court hearings. At the same time, the then Minister of Justice, Matias Tesfaye, announced that it had been decided to launch an external and independent investigation of the IT system and its practical use as soon as possible. The study was expected within the next quarter, i.e. the first quarter of 2021. On 8 December 2023, the Ministry of Immigration and Integration stated that the study report is still not available.

Thus, the promised investigation into breaches of control obligations has not been finalized. Thus, it cannot be ruled out that foreigners who resided at Kærshovedgård before December 2020 have been convicted on an erroneous basis.

Care

Staff are not able to care for residents to the extent expected when requiring a stay. A stay could very well result in serious permanent injuries.

No upper time-limit

Apart from the group on tolerated stay, there are no time limits for the length of the stay at the center. This adds to the sense of idleness and hopelessness.

Other issues

Finally, today, Kærshovedgård is at the center of a political battle, where it can be difficult to keep the balance between the intolerable and the acceptable expressed through the Human Rights Conventions and common decency.

In 2014, after several visits to the Sandholm Center, which at that time received foreigners on tolerated stay, the Ombudsman stated that he found there to be reason for the responsible authorities to consider more comprehensively to what extent it was necessary to maintain the overall burdensome and restrictive living conditions which he saw. Since then, the group on tolerated stay has moved to Kærshovedgård, where the residents live under even more restrictive conditions. The aforementioned rethinking has not taken place.