

## DENMARK

Denmark is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First and Second Optional Protocols. The Danish asylum procedure is governed by the Aliens Act of 1983, as amended.<sup>1</sup>

Detention of asylum seekers is common, with an estimated 50% of all asylum seekers detained at some point.<sup>2</sup> 12,200 people applied for asylum in 2000, and there were 495 asylum seekers detained in 2000.<sup>3</sup> In 2001, there were 12,403 asylum applications lodged in Denmark, and there were 666 asylum seekers detained.<sup>4</sup> These statistics do not include asylum seekers detained in accordance with Section 36 of the Aliens Act who are released within three days of detention.<sup>5</sup> In the first quarter of 2002, 1,933 applications were filed.<sup>6</sup>

Asylum seekers who cannot establish their identity and travel route are usually detained by border police under the authority of the Ministry of Justice.<sup>7</sup> Asylum seekers who

---

<sup>1</sup> U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 191, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

<sup>2</sup> AMNESTY INTERNATIONAL, DETENTION OF ASYLUM SEEKERS IN THE EUROPEAN UNION at 6 (December 2000) [hereinafter AMNESTY EU REPORT 2000].

<sup>3</sup> Peter Clasen Toft, Head of Section, Danish Immigration Service, International Division, Response to LCHR Questionnaire on Detention of Asylum Seekers, at 1 (Feb. 15, 2002) (on file with Debevoise & Plimpton) [hereinafter Danish Response to LCHR Questionnaire].

<sup>4</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 1.

<sup>5</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 1.

<sup>6</sup> UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, ASYLUM TRENDS IN 28 INDUSTRIAL COUNTRIES: JANUARY TO MARCH 2001—JANUARY TO MARCH 2002, *available at* <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+2wwBmelFXx8wwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/.opendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

<sup>7</sup> UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, RECEPTION STANDARDS FOR ASYLUM SEEKERS IN THE EUROPEAN UNION at 54 (July 2000) [hereinafter UNHCR EU REPORT 2000].

refuse to stay in a reception center, are deemed violent, or fail to appear for an asylum interview may also be detained.<sup>8</sup>

After an individualized examination of the claim, asylum seekers whose application is subject to the “manifestly unfounded” procedure may be detained for seven days to ensure their presence during this process.<sup>9</sup>

Asylum seekers may also be detained if custody is found necessary on definite grounds to ensure their presence during their case and possible appeal, if (a) the asylum seeker is not a permanent resident and is suspected of having committed an offense that may lead to deportation or (b) the asylum seeker entered Denmark in violation of an entry prohibition.<sup>10</sup>

Rejected asylum seekers awaiting deportation may be detained if the police believe that less restrictive measures are not sufficient to ensure compliance with a removal order. Such less restrictive measures may include deposit of travel document, posting of bail, reporting to police and staying at a designated address until deportation.<sup>11</sup> UNHCR reports that detention is chosen over less restrictive measures frequently.<sup>12</sup>

In June 2001 an amendment to the Aliens Act was passed by Parliament which expanded the grounds for detention of asylum seekers. Asylum seekers who applied for asylum in Denmark and were subsequently expelled may be detained throughout the asylum procedure.<sup>13</sup> Further, police may detain asylum seekers where: the asylum seeker does not assist in procuring information for the case, fails to appear for a hearing or fails to respond to a police summons, has exhibited violent or threatening behavior to individuals working in or residing in an accommodation center, fails to stay at a place determined by the Danish Immigration Service, or does not cooperate with arrangements for deportation. Such detention may only be ordered after an evaluation of whether

---

<sup>8</sup> AMNESTY EU REPORT 2000, *supra* note 2, at 5.

<sup>9</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 2-3; Aliens (Consolidation) Act §§ 36(1), 37(3), 53(a)(3) (2001).

<sup>10</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 3; Aliens (Consolidation) Act § 35(1).

<sup>11</sup> DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN WESTERN EUROPEAN COUNTRIES at 49-50, *available at* <http://www.english.drc.dk/publications/> (May 2000) [hereinafter DRC W. EUR. REPORT 2000].

<sup>12</sup> UNHCR EU REPORT 2000, *supra* note 7, at 63.

<sup>13</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 3; Aliens (Consolidation) Act § 36(3).

alternatives to detention, such as reporting to the police, may be sufficient to ensure the appearance of the asylum seeker.<sup>14</sup>

Asylum seekers who are not detained or are released from detention are referred to one of two reception centers, both within 50 km of Copenhagen. These centers are run by the Danish Red Cross and have a combined capacity of over 900 beds. The reception centers are open and serve as a primary site for registration with the police and preliminary interviews with the Danish Immigration Service.

After six weeks, asylum seekers are normally assigned to accommodation centers, unless they make a special application to live with family or friends. Refugee financial assistance and social services are tied to residing within the accommodation centers, which are also run by the Danish Red Cross. There are kitchens, families are typically housed separately, and residents are provided with pocket money. Asylum seekers may leave the center for up to six weeks per year, provided there is an address or a telephone number where they can be reached. The Danish Red Cross also runs a center for victims of torture or trauma, which is staffed by trained specialists including medical doctors and nurses.<sup>15</sup>

*Is there independent review of the detention decision? Yes.*

After three days of detention, asylum seekers are entitled to mandatory review of detention by the lower City Court.<sup>16</sup> This review examines the lawfulness of the detention and its continuance.<sup>17</sup> Detention may be extended by judicial decision for up to four weeks. Further detention requires review by the lower City Court.<sup>18</sup> The decision of the lower City Court can be appealed to the High Court.<sup>19</sup>

The general law on administration of justice applies fully to the detention of asylum seekers.<sup>20</sup>

---

<sup>14</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 4; Aliens (Consolidation) Act § 34(2).

<sup>15</sup> DRC W. EUR. REPORT 2000, *supra* note 11, at 53-54.

<sup>16</sup> UNHCR EU REPORT 2000, *supra* note 7, at 64.

<sup>17</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 2.

<sup>18</sup> DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 49.

<sup>19</sup> E-mail from Louise Juelskjaer, Danish Refugee Council, to Jaya Ramji, Debevoise & Plimpton (Nov. 7, 2001) (on file with Debevoise & Plimpton) [hereinafter Danish Refugee Council Correspondence].

<sup>20</sup> *Id.*

*Are there limits on the period of detention?* No.

Asylum seekers detained while being processed under fast track procedures (for “manifestly unfounded” claims) may be detained for no longer than seven days.<sup>21</sup>

Other asylum seekers are not subject to a maximum length of detention, although continued detention of asylum seekers awaiting deportation is subject to the requirement that deportation can be carried out in the near future.<sup>22</sup> However, UNHCR reports that it is not unusual for those awaiting deportation or establishment of identity to face detentions exceeding a year.<sup>23</sup>

*Is there periodic review of detention?* Monthly; automatic.

The initial decision to detain is reviewed by the lower City Court after a maximum 3 days, and such detention may be extended for up to a maximum of four weeks. Any further periods of detention, each not to exceed four weeks, must be ordered by the lower City Court.<sup>24</sup>

*Is there access to government-funded legal aid?* Yes.

At court hearings on detention, the asylum seeker is provided with state-funded, appointed counsel.<sup>25</sup> While asylum seekers are entitled to such counsel as soon as they are detained, the court appoints lawyers just before the hearing. Consequently, lawyers assigned by the court have insufficient time to interview their client and prepare the asylum claim, and are often unfamiliar with immigration law.<sup>26</sup>

The independent Danish Refugee Council (“DRC”) offers immigration counseling during all stages of the asylum process, both in detention centers as well as at their offices.<sup>27</sup>

---

<sup>21</sup> DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 47.

<sup>22</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 2.

<sup>23</sup> UNHCR EU REPORT 2000, *supra* note 7, at 63.

<sup>24</sup> DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 49;  
UNHCR EU REPORT 2000, *supra* note 7, at 64.

<sup>25</sup> DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 48;  
UNHCR EU REPORT 2000, *supra* note 7, at 59.

<sup>26</sup> EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES at 84-85, *available at* <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001].

<sup>27</sup> DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 45, 48.

The police must inform detained asylum seekers of their right to contact the DRC. Lawyers from the DRC are generally able to visit the detainee within three days, and police are not present during the interview. The DRC provides interpreters and advice, as well as follow-up work with the Immigration Service and police.<sup>28</sup>

*Alternatives to detention:* Alternative measures to detention include the payment of a bond, surrender of passport, staying at a designated address or regular reports to the police.<sup>29</sup> In addition, as detailed above, asylum seekers who are not detained or are released from detention are referred to one of two open reception centers run by the Danish Red Cross.

*Vulnerable groups:* Detention of asylum seekers with small children and of minor asylum seekers is only ordered on an exceptional basis. Such cases are processed as swiftly as possible. Detention of seriously ill asylum seekers is avoided to the greatest extent possible.<sup>30</sup>

Unaccompanied minors, up to age 18, are accommodated in special reception centers run by the Red Cross. Children who are not considered mature enough -- generally those under the age of 15 -- are not required to submit an application for asylum and may be granted a residence permit under exceptional circumstances. This evaluation is made by the Immigration Service. Unaccompanied minors are provided with a Red Cross guardian but are not afforded free legal advice.<sup>31</sup>

---

<sup>28</sup> ECRE EUR. STUDY 2001, *supra* note 26, at 84.

<sup>29</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 4-5; Aliens (Consolidation) Act § 34(1).

<sup>30</sup> Danish Response to LCHR Questionnaire, *supra* note 3, at 5; UNHCR EU REPORT 2000, *supra* note 7, at 63.

<sup>31</sup> DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 48, 55.