
Report on

**Centres for Foreign Nationals
and Deportation Centres in
Denmark**

**Appendix
Kærshovedgård Deportation
Centre**

May 2017

Bodil Philip
former prison governor

Arne Stevns
former senior chief prosecutor

**The Danish Helsinki Committee
for Human Rights**



In a letter dated 19 September 2017, the Danish Helsinki Committee for Human Rights received a number of general and more detailed comments from the Danish Immigration Service. These comments will not lead to any changes to the Helsinki Committee's recommendations. The letter is attached at Appendix 2.

On 30 August 2017, the Danish Minister of Immigration and Integration informed the Immigration and Integration Committee that, as at 30 June 2017, there were 45 people with tolerated stay status who were under obligation to reside at and report to a particular accommodation centre.

Table of contents

1. Introduction	4
2. The Vridsløselille institution and Ellebæk centre for foreign nationals	7
3. The Sjælsmark and Kærshovedgård deportation centres in general	8
4. Sjælsmark	9
5. The residents at Kærshovedgård	9
6. Assessment of conditions at Kærshovedgård	10
6.1 Degree of detention	10
6.2 Nature of the stay	12
6.3 Comparison between Kærshovedgård and Sjælsmark	15
7. Conditions at Kærshovedgård seen in relation to the situation at the Sandholm Centre for people on tolerated stay, where the ombudsman made an inspection visit in December 2014	16
8. Assessment and recommendations	17

8.1. Assessment	17
8.2 Recommendations	18

Appendix

Kærshovedgård Deportation Centre

1. The visit to Kærshovedgård	20
2. General	20
3. The residents 21	
4. Buildings	22
5. Reception	22
6. Access to the outside world	23
7. Reporting, residence and notification obligation	23
7. 1 Reporting obligation	
7. 2 Residence obligation	
7. 3 Notification obligation	
7. 4 Response to breaches of reporting, residence and notification obligations	
8. The departments	24
9. Catering	25
10. Activities	26
11. Healthcare	27

12. Leisure	28
13. Security and order	28
14. Personnel	29

Centres for Foreign Nationals and Deportation Centres in Denmark

Report prepared by the Danish Helsinki Committee for Human Rights (DHC) by former prison governor Bodil Philip and former chief prosecutor Arne Stevns. Former inspector of prisons Hans Henrik Brøndsted acted as a consultant on the project.

1. Introduction

The issue of the treatment of foreign nationals whom the asylum authorities have declared to be unwanted in Denmark, and who do not leave the country, has been the subject of great attention in recent years. These are people on 'tolerated stay'¹, those sentenced to deportation by a court, and rejected asylum seekers who either refuse to leave or who cannot leave as their nationality cannot be established. These groups are currently residing at the Vridsløselille institution, the Ellebæk centre for foreign nationals, and the Sjælsmark and Kærshovedgård (Khg) deportation centres. Vridsløselille and Ellebæk are closed institutions that accept foreign nationals who are detained under Section 36 of the Danish Aliens Act. Sjælsmark and Khg are open institutions and accept foreign nationals with a residence obligation.

Over time, conditions at Vridsløselille and Khg have been strongly criticised.

The ombudsman visited Vridsløselille on 29 February and 22 June 2016 and Khg on 31 October 2016. Following the most recent visit to Vridsløselille, the ombudsman considered that conditions had improved so significantly that they could be regarded as acceptable.

The visit to Khg covered only the conditions for rejected asylum seekers who are able to travel but who are refusing to cooperate. According to the asylum authorities, in other words, these people have the option of returning home if they so wish. However, they cannot be sent home – for example, because the home country will not accept people who have been forcibly sent home.

With regard to the visit to Khg, the ombudsman concluded on 19 April 2017 as follows: 'The asylum authorities have considered that the rejected asylum seekers are not at risk of persecution in their home country, and that they are able and have a duty to return home. They have chosen not to do so. And this is an important reason why there is no basis for me to do more.'

The inspection did not include those on tolerated stay, those sentenced to deportation by a court, and those ordered to be deported who cannot travel as their nationality cannot be established.

¹ 'Tolerated stay' status is given to foreign nationals who are unable to travel due to the risk of them being sentenced to death, tortured or subjected to other inhuman or degrading treatment preventing their expulsion. See the refoulement prohibition in Section 31 of the Aliens Act.

On 16 December 2014, following an inspection visit to the Sandholm Centre, the ombudsman submitted a report about conditions for people with tolerated stay status. The ombudsman considered the overall conditions for persons on tolerated stay at the Sandholm Centre – in connection with the indeterminate time aspect – to be very stressful and restrictive for basic living. However, the general conditions did not contravene the prohibition on ‘degrading treatment’ in the UN Convention against torture and in the European Convention on Human Rights’.

Foreign nationals with tolerated stay status have since been transferred to Khg. It is not known whether or not this transfer would change the ombudsman’s assessment. It is, however, worth noting that, in his conclusion from the visit to Khg, the ombudsman states that an important reason why there is no basis for him to take further steps is that the asylum authorities have considered that rejected asylum seekers are not at risk of persecution in their home countries – a situation that does not apply to those on tolerated stay. The same applies to those whose nationality cannot be established and who are thus not themselves to blame for the fact that they cannot leave.

In two cases of tolerated stay (in 2012 and 2017), the Danish Supreme Court held that there had been a breach of Article 2 of Additional Protocol 4 of the European Convention on Human Rights (ECHR) in respect of the lack of proportionality between the degree and duration of detention and the nature of the case. As a result of these judgments, the Danish Immigration Service is now reviewing all tolerated stay cases with a view to assessing whether or not the requirement for a residence obligation might be lifted in individual cases. By 22 March 2017, this had been done in nine cases, while cases were still being processed.

The Immigration Service states that, if a foreign national with tolerated stay status and whose residence obligation has been lifted chooses to leave the centre, then the legal basis whereby the Service pays accommodation and healthcare benefits will lapse. This means that this group of people will be directed elsewhere for others to pay for them. It is beyond the remit of this report to illustrate what options for public sector support are available in these cases. In making an assessment, part of the consideration must be that these are people who cannot leave because, according to the Danish Refugee Appeals Board, they are at risk of the death penalty, torture or other inhuman or degrading treatment.

In their response in October 2016², the Danish Institute for Human Rights, Amnesty and Dignify considered that conditions at Khg were so intrusive that they were very reminiscent of actual unlawful detention.

The Minister of Immigration and Integration, Inger Støjberg, stated that the Danish Government is willing to go to the very edge of what the conventions allow in order to persuade the residents to leave, and that it wants ‘tolerated stay’ to be unbearable. The agreement on a new, tight and consistent policy on immigration (Part 1) in November 2015 showed that the parties to the agreement are united in making greater use of detention as a means of persuading, among others, rejected asylum seekers to assist in providing the necessary documents. It is not stated that the stay should be particularly unpleasant, apart from the aspect of detention.

² To the draft proposal to amend the Danish Aliens Act, the Danish Sentence Enforcement Act etc. and the Danish Penal Code (enhanced controls on foreign nationals with tolerated stay status and criminal deportees, including the introduction of a notification obligation, increased penalties, the use of electronic ankle bracelets and special access to the option to use remand).

Against this background, the Danish Helsinki Committee (DHC) wished to use this report to gather knowledge that may be used to assess:

1. whether there is such restriction of freedom of movement at Sjælsmark and Khg that this could be equated with actual detention, and that there is therefore a restriction of freedom of movement contrary to the EHRC's Art. 5³.

Both institutions accept foreign nationals who will be leaving the country but who are not detained under the provisions of Section 36 of the Aliens Act; and

2. whether the conditions under which residents are living at the four institutions may be considered of an inhuman or degrading nature in accordance with Art. 3 of the EHRC⁴ and Art. 16 of the UN's convention on torture⁵.
3. whether the restrictions on freedom of movement contravene EHRC Additional Protocol 4, Art. 2, as the Danish Supreme Court has ruled on two occasions.

The following material has been included in the assessment:

- Data obtained during the visit to Khg of 3 March 2017, Appendix 1
- Data obtained during the visits to Vridsløselille, Ellebæk and Sjælsmark on 24 March 2017
- Meeting with the Danish Immigration Service on 22 March 2017
- Telephone meeting with Claus Birkelyng of the Danish National Police Immigration Centre on 29 March 2017
- Material received from the Danish Parliamentary Ombudsman regarding visit to Vridsløselille
- Danish Parliamentary Ombudsman's report on inspection visit to Sandholm Centre – people on tolerated stay, submitted 16 December 2014
- Danish Parliamentary Ombudsman's report on inspection visit to Kærshovedgård Deportation Centre on 31 October 2016, submitted 19 April 2017
- News item from 19 April 2017: 'Rejected asylum seekers at Kærshovedgård being treated according to the rules'
- Extract of internal report from the Ombudsman dated 19 April 2017 regarding the inspection visit to the Kærshovedgård Deportation Centre. The report was received following a request for public access to documents.
- Letter of 19 April 2017 to Khg re.: - Inspection visit to Kærshovedgård Deportation Centre on 31 October 2016.

³ EHRC's Art. 5. Everyone has the right to liberty and freedom of person. No-one shall be deprived of his or her liberty... save as prescribed under paragraphs 1a-f and paragraph 25 of the Article.

⁴ EHRC Art. 3: Prohibition of torture. No one shall be subjected to torture or to inhuman or degrading treatment or punishment...

⁵ UN Convention on Torture, Art. 16 regarding cruel, inhuman and degrading treatment

- The Guzzardi judgment passed by the European Court of Human Rights in 1980
- Two judgments by the Danish Supreme Court, from 2012 and 2017
- The contract between the Danish Immigration Service and Kærshovedgård.

Following visits to all four institutions in March 2017, the DHC considers that it is only at the Khg deportation centre that doubts can be raised with regard to breaches of the conventions. For this reason, the account below deals mainly with the conditions at Khg. Appendix 1 contains a detailed account of the visit.

2. The Vridsløselille institution and Ellebæk centre for foreign nationals

Both institutions accept rejected asylum seekers who are not prepared to cooperate in leaving, where it is feared that these people may seek to avoid this⁶ and where they are therefore being detained under the provisions of Section 36 of the Aliens Act. Both centres are closed institutions and accept the same type of clientele. However, women and young people below the age of 18 are received only at Ellebæk. If required, residents can be transferred between the institutions.

All residents have had their cases processed in court within 3 × 24 hours and been allocated a solicitor. Where the person is subject to detention, the case for possible extension of the period of detention must be brought before the court within a maximum of four weeks.

The average stay in both institutions is less than one month. A number stay for somewhat longer, but never for more than a year.

The institutions are part of the Danish Prison and Probation Service, and residents live in conditions similar to those of custody – although their cases are processed here. The main purposes of the institutions are to provide the necessary controls and safety, and to support and encourage the individual by offering a meaningful pathway that focuses on security and activities.

Participation in activities is emphasised at both sites, and a wage paid for taking part.

It was found that there was general satisfaction with the food, although at Vridsløselille there was a desire for hot food to replace the traditional Danish sandwich. Toast was freely available. It was possible to buy fruit.

There was a clear desire at both sites to create a meaningful pathway with the focus on security and activities.

Residents were allowed one free telephone call a week, as well as access to the telephone on the section on payment. Mobile phones and access to the Internet (and, therefore, Skype) were not permitted.

⁶ The target groups of the institutions are as follows: Foreign nationals who have been administratively deported/rejected, who are to be sent home (on recall or expiry of a residence permit), who are to be returned under the provisions of the Dublin Convention, whose must remain present, who have not complied with the regulations on residence, who significantly hinder the process of resolving the case and who have been sentenced to deportation by a court for an asylum-related criminal offence.

It can be seen from the reply to the question in the Danish Parliament on 21 February 2017 that the expense of running, for example, 20 places at Vridsløselille is around five times that of running an equivalent number of places at Ellebæk. If there are 50 places, the daily running expenses are three times higher at Vridsløselille than at Ellebæk.⁷ The average occupancy in 2016 was 45. Finance is not a matter for the DHC. However, we would consider it reasonable to draw attention to this fact, given that financial considerations are mentioned in connection with the treatment of this group of people.

The DHC has no comments on conditions at the Vridsløselille institution and the Ellebæk Centre for Foreign Nationals. It is stressed that stays at these two institutions follow a court order (supported by a lawyer), that the stays are relatively short, and that the emphasis at both institutions is to ensure the presence of the foreign nationals and to focus on a meaningful pathway. This is not deemed to be a breach of the EHRC's Art. 3 and the UN's convention on torture, Art. 16.

3. The Sjælsmark and Kærshovedgård deportation centres in general

Common to the centres is the fact that placement follows a decision by the Immigration Service. Unless the circumstances suggest otherwise, there are continual six-monthly assessments of whether or not the residence requirement needs to be maintained. The decision is an administrative one and there is no option to appeal to another administrative authority. There is no judicial review with an associated lawyer as in cases where people are placed in accordance with Section 36 of the Aliens Act, and thus no judicial assurance of the justification of the residence requirement and that the duration of the stay is subject to continual consideration. Under the provisions of Section 63 of the Danish Constitution, the issue of placement can be brought before the courts. However, this requires funds for legal assistance.

The Immigration Service has overall responsibility for both centres and has entered into identical contracts with the Danish Prison and Probation Service on the day-to-day running of the centres. The Danish Prison and Probation Service has entered into a contract with the Red Cross with regard to the provision of healthcare and activation. The National Police Immigration Centre is responsible for the deportation and administration of the case in this regard.

The centres are intended as the final station prior to leaving the country. This means that people can only be transferred to another centre if their asylum case is reopened or a criminal case is brought against them. Transfers on the grounds of bad behaviour, medical indication, etc., are permitted only if all other options have been tried.

⁷ Reply to question no. 431 (General part) of 21 February 2017

Price per day

Number of people	20	50
Vridsløselille	6,864	3,537
Ellebæk	1,410	1,097

The National Police Immigration Centre states that there is no forced removal of people to countries unwilling to accept them. This means that foreign nationals who either inform their embassies that they do not wish to return voluntarily, or are not prepared to cooperate in producing the necessary travel documents, cannot be removed unless the embassy gives its approval, which several embassies do not.

The Centres for Foreign Nationals are run on the basis of cooperation between the Immigration Service, the Prison and Probation Service, the Danish Red Cross and the Danish Police, with regular meetings held among them.

There are residence, reporting and notification obligations at both centres. The maximum penalty for contravening the residence and reporting obligation is 18 months' imprisonment.

4. Sjælsmark

Sjælsmark accepts 1) families whose asylum claims have been finally rejected, 2) families and single persons in the Dublin procedure⁸ and 3) families and single persons in the Manifestly Unfounded procedure.

The centre lies at about an hour's driving distance from Copenhagen. Residents are free to leave the site and a bus runs every thirty minutes.

Although activities are offered, it is difficult to get residents to take part. It is reported that many residents are absent during daytime hours.

Meals are taken in a canteen. There is no self-catering option, although families with children can heat up milk.

The option is available to perform body searches when the possession of stolen goods is suspected.

Management states that there are always between 5 and 10 residents who disturb the quiet at the centre, but that there are no notable problems with violence, either among residents or towards staff. There is no option for a transfer.

A total of five prison officers and 15 institutional employees work at the centre. The institutional employees include many educational workers and language experts. A special five-day training course has been developed for institutional employees, which teaches them about the asylum system, the routes taken by refugees to Denmark, the job of the police, case processing, the creation of deportation centres, managing conflict and cultural understanding.

There is no local police at the centre, but the police can be called.

⁸ The Dublin procedure regarding an agreement on which country will process an asylum case.

5. The residents at Kærshovedgård

Kærshovedgård receives foreign nationals whose asylum claim has been finally rejected and who are not leaving because: 1) they have been placed on tolerated stay because of the refoulement prohibition in Section 31 of the Aliens Act (see note 1); 2) their nationality cannot be established; 3) they refuse to leave, including cases where their departure date has passed; or 4) they will not cooperate with the issue of the necessary travel documents, which is a prerequisite for sending them home. The centre accepts both men and women, but not couples and children.

The centre has 400 places, and on 6 April 2017 Khg had 116 residents, nine of whom were on tolerated stay.

The centre opened on 22 March 2016 after having been used as a prison until three months previously.

No information is available about stay durations, but the fact that the centre receives foreign nationals who are on tolerated stay means that, for some residents, stay durations may be several years, without the person in question having any influence over the length of the stay. In the two previously mentioned judgments, the Supreme Court overruled the Immigration Service, referring to the lack of proportionality between the degree and duration of detention and the nature of the case (see EHRC Additional Protocol 4, Art. 2. Although a guideline has been laid down with these two judgments, more judgments will be needed if a practice is to be pinpointed. One individual resident at Khg on tolerated stay had been in Denmark for 28 years. No information is given as to how many years the person had been under a residence obligation at a centre. Another had been known in the country since 2004 and had spent varying periods at centres.

Against the background of the Supreme Court judgments, the Immigration Service is reviewing all cases of foreign nationals on tolerated stay with a residence obligation. On the date of the visit to the Immigration Service on 22 March 2017, the residence obligation had been lifted in nine cases.

Khg does not maintain statistics on cases but is able to state that there are currently three people at the deportation centre whose nationality cannot be established; for this reason, these people cannot leave the country.

Since the opening of the deportation centre in March 2016, two people have left. The Immigration Service states that many people designated to stay at Khg disappear before they arrive. This situation may be due to the foreign national leaving at the prospect of being placed at Khg, or to them going underground.

6. Assessment of conditions at Kærshovedgård

6. 1. Degree of detention

The residents at the Deportation Centre are not detained. The question is whether or not the conditions at the Deportation Centre are of a nature that can be compared with those of detention.

The centre is located in Central Denmark (Jutland), approx. 6 km from Bording and approx. 13 km from Ikast.

There is no public transport to and from the centre. The nearest railway station is located in Bording, and the centre arranges transport only for trips relating to the business of the institution, i.e. those that are necessary for the processing of residents' cases. There are no bicycles at the centre, although private individuals have over time donated a number of bicycles to be refurbished in a wood workshop. At times, the waiting time for a bicycle has been as much as three months.

Apart from those on tolerated stay, foreign nationals have no opportunities to earn a wage or allowance, and thus no opportunity to buy train tickets. A return ticket to Copenhagen costs DKK 776. Foreign nationals on tolerated stay are paid DKK 403 every fortnight.

The residents came from the Sandholm camp and may therefore very well have family or friends in Copenhagen. If they wish to visit them, residents would have to walk or cycle to Bording and then spend 3½ hours travelling by train to Copenhagen.

The institution and special sections are fenced off. Access to sections and rooms is done using a biometric key tag, i.e. an electronic tag combined with fingerprint reading. The data relating to the use of the tag is transferred electronically to the Immigration Service. The Immigration Service is thus always able to record all movements into the residents' rooms that require a key, as well as movements in the area. The Immigration Service states that the fencing is there to protect the residents.

Residents are free to leave the centre. There is no requirement to spend the night there, but foreign nationals must have the centre as their place of accommodation. It is not considered to be a breach of the residence obligation until the absence exceeds 24 hours. However, notification must be given of any absence from the centre in the period from 11 pm to 6 am. In special cases, it is possible to allow a longer period of absence. However, opportunities to spend time away from the centre are limited by Khg's isolated location, as well as the fact that there is an obligation, under penalty of criminal liability, to report to the centre's local police from several times a week to every day between 9 am and 3 pm.

The regulations concerning overnight stays away from the centre are confusing to the centre and, therefore, the residents, too.

The Immigration Service stated that, as far as the information on the residence obligation is concerned, an application may be made for exemption from the residence obligation in cases of: Weekend visits to close family members living in the country, the serious illness of a close family

member, admission to hospital or visits to friends on the occasion of festivals, birthdays, etc. Exemption is granted following an application to the Immigration Service, which will obtain information about compliance with the reporting obligation. There does not appear to be any option for exemptions in emergencies – for example, in the event of a death in the immediate family, or attendance at the birth of the person's child, etc. – as there is in the Prison and Probation Service. The lack of this option can leave residents with a feeling of insecurity – for example, where they wish to be present at the birth of their child.

There is unrestricted access to the Internet and use of a mobile phone – in the case of a mobile phone, this assumes that the person possesses one.

There are no restrictions on visits, but visitors would only be able to get there if they had access to a car. There are no opportunities to stay overnight and no possibility of privacy unless the person is living in a special section. There is therefore in practice no secured opportunity for regular contact with any family living here, as required under Article 8 of the European Convention on Human Rights in respect of entitlement to respect for family life.

In the so-called Guzzardi judgment, the European Court of Human Rights found that a residence obligation, coupled with an obligation to report twice daily and an obligation to notify any absences between 10 pm and 7 am on a relatively isolated island – albeit with the opportunity to have the family residing – was of such intensity that it was a 'detention' within the meaning of Art. 5.

Based on the Guzzardi judgment, it must be considered that, in many respects, conditions at Khg deprive people of their liberty to an equal or greater extent than those described in the judgement, with 1) a residence and reporting obligation – under penalty of criminal liability – for some people on a daily basis and 2) difficulties of access to Khg, with a long distance to the nearest public transport option and, for some, a lack of financial resources to purchase tickets. The residents' isolation thus appears greater than that described in the Guzzardi judgement, which is thus a breach of Art. 5.

On 1 March 2017, tighter requirements were introduced in respect of the reporting, residence and notification obligation, with the introduction of electronic reporting and a reporting obligation under penalty of criminal liability. The Supreme Court did not express a view on what these requirements will mean when assessing whether or not this can be classed as detention.

Under Section 63 of the Danish Constitution, cases regarding the reporting and residence obligation can be brought before the court. However, this requires funds for legal assistance, which these foreign nationals cannot be expected to possess. There is also the possibility of cases being tried in court where the foreign national is charged with a breach of the reporting, notification and residence obligation.

In summary, it must be concluded as follows:

That, in the light of the ruling by the European Court of Human Rights in the Guzzardi judgment, there has been a breach of Art. 5.

6. 2 Nature of the stay

The Minister of Immigration and Integration, Inger Støjberg, stated that the Danish Government is willing to go to the very edge of what the conventions allow in order to persuade the residents to leave, and that it wants 'tolerated stay' to be unbearable. The conditions at Khg are reviewed below, with a view to an assessment as to whether or not the conditions at Khg may be considered to represent a contravention of the EHRC's Art. 3 and Art. 16 of the Convention on Torture (see note 4 and 5).

Residents are accommodated in the original building remaining from the time when Khg was used as a prison. The Immigration Service has furnished the centre and fitted it out in accordance with its new purpose. A canteen has been installed and the section kitchens closed down by nailing shut the kitchen doors to prevent waste from being stored in the cupboards. The cookers have also been removed. Sinks, one refrigerator and an electric kettle were retained. Bunk beds were installed in the general sections and single beds in the special sections. Any wash basins in the residents' rooms were removed for fear of them being used instead as toilets, and residents were directed to shared bathrooms along with the rest of the residents in the institution.

Residents eat at 7 am, 12 noon and 5 pm in the canteen and no food is otherwise served. Residents may not remove any food or tableware from the canteen. There have been attempts to set up a dietary group made up of residents who could discuss diet with a provider. Management considers that tensions among residents are so great that this is not an option. The company that supplies the food has therefore been directed to adjust the food according to demand.

Residents are offered moderate quantities of white bread and 1–2 pieces of fruit per day to take with them onto the sections.

One resident on tolerated stay had a very fundamental dietary request that he should be allowed to eat when he wanted and that he should decide for himself what to eat. In other words, he wanted self-catering, which he had tried when he was serving a sentence in a normal prison.

When Khg operated as a prison, inmates had self-catering and were thus responsible for buying and preparing their own food. The manager at Khg said that she did not see any problems with an arrangement of this kind, but did consider that hygiene perhaps could be a challenge.

No wages or other form of allowances are paid. However, residents on tolerated stay are paid DKK 403 every fortnight.

Management stated that the fact that it was not a requirement to pay any wage or provide any allowance for work carried out made it more or less impossible to motivate residents to perform any maintenance tasks etc.

The Red Cross is responsible for activation, health and leisure. Management states that motivating residents to work is difficult, and that they miss the fact that there is no option to pay a wage or allowance to all. Limited teaching is available, primarily in English, and there is access to therapy-like activation at a wood workshop where bicycles are also repaired. There is a job activation opportunity in the kitchen, cutting up salad. A number of sewing machines are available and a hairdressing salon has recently been set up. Currently, the options for a resident to act as a

chauffeur for other residents are being examined. It has not been possible to persuade the residents to assist with the maintenance of the institution. In summary, it must be concluded that Khg is characterised by a high level of idleness. Opportunities for work are thus limited, and only a few – if any – wish to work without pay.

There are television sets in the common rooms of the sections, but if television sets are repeatedly destroyed these will not be replaced.

There are aerial sockets in the rooms but no option to rent a TV set. However, because of the access to the Internet it is thought that there is a limited need for this. Not only that, but the fact that residents do not receive wages means that they would not be able to pay to rent a TV set unless they received money from outside or were on tolerated stay.

There is access to the Internet, and private mobile phones, iPads and laptops can be used if residents have them. Access to PCs, with full Internet access, is also possible in an Internet café.

Residents may receive visitors each day from 8 am to 10 pm, but there are no special visitor rooms, even for those living in a double room.

The healthcare services are considered ample, with three nurses and access to a doctor, psychiatrist and psychologist. Treatment is provided according to the principle that the treatment must be necessary or urgent, or must provide pain relief. This principle applies to all residents – in other words, it includes those on tolerated stay, who may have long stays there. It applies to both medical and dental treatment.

Leisure time activities are sparse. The only leisure time activities are an exercise room, a small hall and an Internet café with ten computers. Access to the centre's cinema is awaiting clarification. The Red Cross has appointed a leisure coordinator to coordinate offers from volunteers. There is no opportunity to play football in the area.

There are two fenced-in special sections, one for residents on tolerated stay and the other for residents deemed by the Immigration Service to be so poorly as to require special support. The fencing is to protect the residents.

Management states that there are constantly around 10 per cent of the residents who cause great unrest at the centre through noise and vandalism, in many cases as a result of alcohol and drug abuse. The institution is staffed by institutional employees and prison officers. On appointment, institutional employees are required to have passed the 9th grade leaving examination and must be able to speak and understand Danish. Prison officers undergo a three-year training course that focuses on the demands and opportunities found in a prison. In other words, all exercise of authority is supported by means of enforcement that do not apply here as the residents are not under detention. Force can be used only within the confines of the Danish Penal Code's regulations on self-defence and the right of necessity. Searches and seizures are not permitted, other than under the general regulations of the Danish Administration of Justice Act, and – unlike in prisons – there is no opportunity to initiate disciplinary responses or to move unruly inmates.

Staff attend a five-day course together with the staff at Sjælsmark (see section 4). Until a course is held, staff are referred for peer-to-peer training.

There is no doubt that staff make a great effort, but none of them are training to resolve the task. From 1 August 2017, prison officers are to be rotated on a six-monthly basis. This means that the experience built up is being continually lost.

Management at Khg states that the Immigration Service has refused to move unruly residents. The Immigration Service states that this is possible if all other options have been exhausted. The extraordinary difficulty in enacting a transfer has led to an insecure environment at the centre. The police are present, but they can intervene only when a criminal offence has been committed or in accordance with the provisions of the Danish Police Act with regard to maintaining peace and order in a public place.

Threats and violence among residents and towards staff are reported to the Immigration Service. The information is held as individual cases and is not used as the basis for ongoing statistics.

In summary, it must be concluded that the institution is characterised by a high level of idleness, and that the fact that no wages or allowances can be paid to anyone other than those in the group of tolerated stay makes the work of the institution more difficult.

There are limited leisure opportunities, and no option for residents to decide for themselves when and what to eat. The staff are untrained for the task, people's activities are tightly monitored, there is no opportunity for a private visit, and there is a requirement to report to the police regularly without any chance of an exception being made, e.g. in the case of an anxiety attack resulting from a previous contact with the police.

In addition, residents who can expect very long stays are only offered necessary, urgent pain relief.

Another feature of the institution is that people are afraid of each other, and in practice unable to defend themselves against unruly elements.

Management states that what makes the stay unbearable is the isolated location of the site, as the staff do everything they can within the given boundaries to make the stay as bearable as possible.

There is no doubt that the Red Cross staff do whatever they can; however, the opportunities are very limited.

6.3 Comparison between Kærshovedgård and Sjælsmark

Conditions at Khg and Sjælsmark are very different.

Khg receives only single men and women who either cannot or do not wish to leave, while the group at Sjælsmark receives families whose applications for asylum have been finally rejected, families and single people in the Dublin procedure⁹ and families and single people in the Manifestly Unfounded procedure.

The durations of stays at Khg are significantly longer than at Sjælsmark, as here they receive foreign nationals on tolerated stay and rejected asylum seekers who do not wish to leave – in some cases, because the receiving country will not accept their nationality. In practice, foreign

⁹ The Dublin procedure regarding an agreement on which country will process an asylum case.

nationals on tolerated stay and rejected asylum seekers whose nationality cannot be established are staying for an indeterminate time, and some may stay for an extremely long time. One individual resident on tolerated stay had been in Denmark for 28 years.

Khg's location is significantly more isolated than that of Sjælsmark. The nearest town with a station is 6 km away and there is no public transport to the town. Anyone wishing to visit family or friends in Copenhagen faces a six-hour walk followed by a 3½-hour train journey. A return ticket costs DKK 776. Foreign nationals on tolerated stay are paid DKK 403 every fortnight. Rejected asylum seekers receive no wage or allowance, and will therefore only be able to visit relatives if these relatives pay for the ticket. A bus departs from outside Sjælsmark and it takes one hour to drive to Copenhagen. A return ticket costs DKK 152.

Staying and working must be considered significantly more stressful and demanding at Khg than at Sjælsmark, for both residents and staff. The two institutions work according to the same contract. This situation does not appear to have been taken into account, apart from the fact that there is a permanent police presence at Khg and yet no police at Sjælsmark. In practice there is no opportunity to secure the relevant work, and no wage or allowance is paid to the majority of residents – even though we know from experience in prisons that keeping people occupied is a very important factor in maintaining peace within an institution. We are informed that, at Sjælsmark, only a very few of the residents in practice are there during daytime hours, while residents at Khg are generally at the centre as there is nowhere for them to go. Seen in this light, the problem of the lack of paid work is a significantly bigger problem at Khg than it is at Sjælsmark.

Keeping peace and order in an institution of this nature requires staff who are able to deal with conflicts within groups, who are familiar with foreign cultures, and who know how to work with frustrated, apathetic, anxious, depressive and traumatised people, who at times can be aggressive. Staff whose sole educational and training requirements are a 9th grade leaving examination and an ability to speak and understand Danish, supplemented by a five-day course, cannot be expected to perform this task. Prison officers are trained to work with groups under severe conditions. However, common to their work situation is the fact that, as the people in authority in prisons, they have had access to resources and the option to move inmates. These are options that are not available in practice here.

The possibility of prison officers being able to acquire knowledge and experience with the group over time has been removed by the decision for prison officers to rotate every six months.

The police are present at Khg 24 hours a day, while there are no police at Sjælsmark. The task of the police is to enforce the reporting obligation and to step in if there is any unrest.

7. Conditions at Kærshovedgård seen in relation to the situation at the Sandholm Centre for people on tolerated stay, where the ombudsman made an inspection visit in December 2014.

The ombudsman's most recent inspection visit to the Sandholm Centre was in September 2014, when he stated that he thought there was good reason for the responsible authorities to give more cohesive thought to the extent to which it was necessary on all points to maintain such stressful and restrictive living conditions.

Following the visit by the ombudsman, the group on tolerated stay was moved to Kærshovedgård. The above review of the conditions, as well as the attached appendix, show that – on several points – conditions at Khg are significantly more stressful and restrictive than they were at the Sandholm Centre.

It must be mentioned here:

That the opportunity to maintain a normal family life has been significantly impaired due to the long travel times and significantly more expensive tickets, with no option to earn anything other than a small allowance every fortnight.

That idleness is a greater feature of the conditions at Khg than we are told was the case at the Sandholm Centre, because residents have nowhere to go.

That we are told that a feature of the conditions for residents is that around 10 per cent of them create anxiety and unrest for others. Thus, one of the cornerstones of Human Rights – that people must be able to be free of anxiety – has not been fulfilled.

That the running of the centre has been transferred to the Danish Prison and Probation Service, where staff have not been trained for the job. The Danish Red Cross continues to run the 'soft' activities, but day-to-day running is performed by staff who are untrained for the task. From 1 August 2017, prison staff will be required to rotate with another prison every six months, whereby any stored experience will disappear.

8. Assessment and recommendations

8.1 Assessments

1. That conditions at the Vridsløselille, Ellebæk and Sjælsmark institutions are not cause for comment.

2. That there is a risk that a stay at Khg may be equivalent to detention, and there is thus a risk of a breach of the EHRC's Art. 5.

The assessment stresses the following:

- Khg's isolated location and the lack of public transport options. Only residents on tolerated stay receive an allowance. The allowance is DKK 403 per fortnight. A return ticket from Bording to Copenhagen costs DKK 776, with a journey time of 3½ hours each way.
- that there is a residence obligation, which is controlled by a reporting and notification obligation introduced under penalty of criminal liability. This tightening up applies to both Khg and Sjælsmark, but has most impact at Khg, where the group with the longest durations of stay are located.
- that the entire area and some sections are fenced off. Electronic registration is used to record the opening of doors and is notified to the Immigration Service. The fencing is justified as a means of protection but is also used as a means of control.
- that stays are of indeterminate duration and can be very lengthy, without the foreign national having any influence on the duration of the stay, nor any idea of when the residence requirement will cease. This is based on the Immigration Service's view that there is no option for them to leave the country.
- that the requirement for a residence and reporting obligation has been intensified by the introduction of electronic registration, and by the raising of the maximum penalty for breaches to 18 months' imprisonment.

3. That we find it worrying that stays at Khg are a result of an administrative decision, not a decision by a court.

The assessment stresses the following:

- that the decision on a residence obligation is an administrative one and there is no appeal against this to any other administrative authority. The only option for a review is a judicial review under Section 63 of the Danish Constitution. This would require legal assistance, which may be very difficult for the resident to finance. There will thus be no legal guarantees in the form of legal assistance and a judicial review, as required in the case of placements under Section 36 of the Aliens Act – even though the stays can be extremely long.

4. That a stay at Khg may be considered so stressful that there is a risk that this may be a breach of the EHRC's Art. 3 on inhuman and degrading treatment.

The DHC regards with particular concern the group placed at the centre with tolerated stay status, as well as those unable to leave because no state is willing to accept them. Even though the Immigration Service is currently reviewing all tolerated stay cases, it must be assumed that, in the future, too, there will be foreign nationals at the centre who, through no fault of their own, are unable to leave. The Supreme Court has, in two specific cases, set a guideline for the duration of stay for a foreign national on tolerated stay at approx. three years. The Supreme Court did not address the issue of shorter times.

Added to this is the fact that the Immigration Service does not have the authority to pay maintenance and healthcare benefits for those people on tolerated stay who are not residing at the centre. In practice, this means that there will be a group of people with no opportunity to have these expenses paid in any other way, and who will therefore be directed to take up residence at

the centre or on the streets. If they choose the centre, the stay could be a very long one if no solution is found.

The DHC finds it reprehensible that dental and medical treatment is given only according to the principle that treatment must be deemed necessary and urgent and must provide pain relief. For residents staying for such long period at Khg, this treatment is considered insufficient.

In the light of the above, we find it reprehensible that no suitable jobs are available, that those on tolerated stay are placed in rooms of less than 10 m², that residents cannot decide for themselves what and when to eat, that normal dental and medical assistance is not available to the group of people who, through no fault of their own, are unable to leave – and the fact that the required feeling of security is absent at the site.

There is no doubt that the employees of both the Danish Prison and Probation Service and the Red Cross are doing a great job, but it is reprehensible that neither prison officers nor institutional employees have the relevant training for the job, and a course lasting five days is in no way sufficient to be able to perform the task. An additional factor is that the courses are not held continually, so there can be some time from being appointed to attending a course. The educational requirements on institutional employees, which are simply nine years' schooling and the ability to speak and understand Danish, are not considered sufficient to take on the job. The DHC finds it worrying that there is a requirement for prison officers to rotate every six months. A lot of the experience gained will thereby be lost.

It is of concern that we are told that it is not possible to persuade residents to take on work as no wage or allowance can be paid for this. It is generally known that being occupied itself is an important factor in maintaining peace and order in an institution.

8.2 Recommendations

1. *that notice of a residence obligation should be given in accordance with Section 36 of the Aliens Act, including a judicial review and the appointment of a legal representative.*
2. *that the courts should decide whether the residence obligation at the Kærshovedgård deportation centre can be equated with detention, thus making it a breach of the EHRC's Art. 5.*
3. *that a number of residence obligation cases should be placed before the court with a view to pinpointing when there is a restriction on entitlement to freedom of movement contrary to the Convention. (See Additional Protocol 4, Art. 2 of the EHRC.*
4. *that the ombudsman considers conditions at the Kærshovedgård deportation centre to be in breach of the EHRC's Art. 3 and the UN's convention on torture, Art. 16.*

5. *that rejected asylum seekers who cannot be sent home and residents on tolerated stay should be given normal access to dental and medical care and not just in accordance with the 'necessary, urgent pain relief' principle.*
6. *that the responsible authorities should consider in a more cohesive way whether or not it is necessary to maintain such stressful and restrictive living conditions for all groups at the Kærshovedgård deportation centre, including considering particularly the necessity of the conditions imposed on those on tolerated stay and those who cannot be sent home because no country will accept them.*
7. *that a review should be held of the staffing at the deportation centre, including whether or not there is a need for more training, and that the requirement for prison officers to rotate should be lifted.*
8. *that statistics should be produced on a continual basis on threats and violence among residents and against staff.*

Appendix to Report on Centres for Foreign Nationals and Deportation Centres in Denmark

Appendix 1. Kærshovedgård Deportation Centre

On 3 March 2017, former inspector of prisons Bodil Philip, former Crown Chief Prosecutor Arne Stevns and former inspector of prisons Hans Henrik Brøndsted visited the Kærshovedgård Deportation Centre on behalf of the Danish Helsinki Committee for Human Rights.

1. The visit to Kærshovedgård:

- Participation in institution's morning meeting at 8.30 am, which was attended by the Head of the Institution, Unit Manager, staff from the Danish Prison and Probation Service, the Red Cross, the Danish police and nursing services.
- Discussion with Head of the Institution, Anne Marie Borggaard, and Institution Manager Peter Smefttrup
- Discussion with the police
- Lunch in the canteen with residents, institutional employees, kitchen staff and the institution's service staff.
- Visit to the Red Cross healthcare department (Section D, library). Discussion with two nurses
- Visit to the Welfare Department (Section E/F). Discussion with three Red Cross employees and one of the residents
- Visit to the Red Cross Department for Training, Activities and Volunteers. Discussion with three Red Cross employees and one of the residents, one of whom was a volunteer coordinator.
- Visit to wood workshop offering possibility of bicycle repairs. Discussion with Red Cross employees at the workshop.
- Visit to the tolerated stay section (Section G/H).
- Visit to one of the sections for rejected asylum seekers (double room in a former refugee barracks).

On 22 March 2017, Arne Stevns and Bodil Philip visited the Danish Immigration Service. This report is supplemented with information from here.

2. General

Denmark has two deportation centres, Kærshovedgård and Sjælsmark. Both centres accept foreign nationals who are unwanted in Denmark. The centres do not accept the same group of foreign nationals, so it is not possible to transfer between them. For details on resident groups,

please refer to the report on Centre for Foreign Nationals and Deportation Centres in Denmark, sections 4 and 5.

The open state prison at Kærshovedgård (Khg) was transformed into a Deportation Centre and began operation on 22 March 2016 after having lain empty for a few months. The centre is located in Central Denmark (Jutland), approx. 7 km from Bording and approx. 13 km from Ikast. The area is fenced in, and entry to the area and internally within the unit is done using a biometric key tag, i.e. an electronic tag combined with fingerprint reading. The fencing in was done at the time when the area became a deportation centre, and the special sections are separately enclosed.

The deportation centre is run by the Danish Immigration Service, which has entered into a contract with the Danish Prison and Probation Service for the rent and day-to-day operation of the former prison. The Prison and Probation Service entered into a contract with the Danish Red Cross for the provision of a healthcare service, activation of the residents and the operation of the centre's welfare department.

The North Zealand Police – National Police Immigration Centre is responsible for expulsions. The Central and West Jutland Police are permanently on-site at the centre.

The centre has 400 places.

The centre is intended as the final station prior to leaving the country. This means that people can only be transferred to another centre as a result of bad behaviour, unhappiness, etc., once everything else has been tried, or when it is part of a criminal case or the person's asylum case is reopened. Since the opening of the deportation centre in March 2016, two people have left. Several have had their status changed to asylum seeker and then been moved to an asylum centre. This change may lead to the person's case being reopened and a move made to Phase 2, the deportation centre being Phase 3¹⁰.

The Immigration Service states that many people designated to stay at Khg never turn up and presumably have left the country.

3. The residents

On the day of the visit, there were 100 men and seven women, all single. Management stated that having both men and women at the centre had not caused any problems.

The residents could be broken down as follows:

9 foreign nationals on 'tolerated stay' – i.e. foreign nationals covered by the refoulement prohibition in Section 31 of the Aliens Act (no option for expulsion due to the risk of them being sentenced to death, tortured or subjected to other inhuman or degrading treatment). There is no information available as to whether or not those on tolerated stay are a danger to national

¹⁰ Asylum procedure: Phase I, arrival and registration; Phase II, case processing; Phase III, return home following final rejection.

security, have been ordered to be deported after committing a criminal offence in Denmark, or are unable to gain asylum under the UN refugee convention.

98 rejected asylum seekers. There is no information available as to whether the failure to leave the country is due to it being unable to establish the nationality of the deportee or the deportee not being willing to cooperate with the deportation by refusing to travel voluntarily or assist in producing the departure papers. Khg states that it is aware of three cases where the nationality cannot be established. There may be more cases.

There is no information available about the durations of stays at the centre or in Denmark. However, we were informed of one Iraqi on tolerated stay who had been staying in Denmark for 28 years, and of one rejected asylum seeker who had been in Denmark since 2004 and stayed at alternate centres with breaks in-between.

The nationalities of the residents were not known.

4. Buildings

The residents are accommodated in the former billeting buildings, some of which are former refugee barracks from 2003. Two barracks are around 25 years old. In addition, a few places in the administration building are used for women. A barely finished container town has been built but was not visited.

The Immigration Service was responsible for fitting out the buildings.

The residents' rooms appear as they did when the buildings were used as a prison, except that the sinks have been removed because of a fear that these would be used as toilets. The sections are equipped with washing machines and tumble dryers. If any vandalism is committed on the machines, there are no options to respond other than perhaps delaying the repair slightly so that the residents feel the consequences of the vandalism.

The common rooms were sparsely furnished and all were equipped with a large, flat-screen TV. In one place, we were informed that the flat-screen TV had been destroyed twice by vandalism, and that now they would have to manage without one.

The Red Cross stated that, when they arrived, there was no furniture in their offices, and all equipment had been provided from the Red Cross's second-hand shops. They were in the process of sewing curtains, helped by the residents. The Immigration Service did not recognise this description, stating that, if they needed furniture, they could just ask.

As a result of the transition to canteen catering, the section kitchens had been closed by nailing shut the cupboard doors and removing the handles. The reason given was the fear of the cupboards being used for waste. There was a refrigerator and a kitchen sink. In one place we saw an electric kettle; otherwise, there was no equipment. The bathrooms were shared bathrooms, screened using bathroom curtains.

5. Reception

New residents are received by the police and allocated to a section by the Prison and Probation Service.

When allocating them to a section, the Prison and Probation Service has access to the asylum centres' shared record system. Information about behavioural problems from previous stays was included when deciding which section they should be placed in.

6. Access to the outside world

Residents are free to leave the centre. However, see below. All absences are recorded by the resident activating an electronic door using his/her biometric key tag.

There is a double WiFi network at the institution so that there is always one functioning network. However, WiFi is only now in the process of being installed in the barrack buildings and Red Cross offices. Once this has been established, the options to access the Internet and connect to Skype will be available. There is an Internet café that can be used without restriction.

Residents have access to private telephones, tablets and laptops and can communicate with the outside world without barriers. This assumes, however, that they have such devices.

Residents are free to accept visitors at the centre from 8 am until 10 pm. No special visitors' rooms have been fitted out, however – even for those living in double rooms – and residents do not have the option to have guests staying overnight, not even spouses and children.

TV sets have been installed in the common rooms. One resident said that they could access five channels and would like more, including football channels. Management said that the institution subscribes to a TV package that provides access to many channels, including foreign ones. The institution does not rent television sets to residents as it previously did to the prison inmates, but having a private TV set is not illegal. There are aerial sockets in the residents' rooms. It is not considered that there is a great need for television in the rooms as there is access to tablets and laptops, as well as a shared TV in the common room.

There are no public transport options to or from Kærshovedgård. The nearest option by rail is 6–7 km away at Bording, but there is no bus connection. Residents are therefore directed to walk or cycle to the town. There are currently many bicycles at the centre. These have been reconditioned in a workshop at the centre. A few residents have their own cars, which are parked just outside the fencing.

The deportation centre has a car, which is used for trips relating to the business of the institution – i.e. trips to and from discussions with the authorities etc. and in connection with arrival and departure. There is no capacity for any other trips by car. The Directorate of the Danish Prison and Probation Service is currently being asked whether, from an insurance point of view, it would be possible for a resident to drive a car. If it is, the institution will be able to offer daily transport to and from Ikast or Bording for matters not relating to the business of the institution.

The nurse stated that some residents were so poorly that they would be unable to leave the centre unaided.

7. Reporting, residence and notification obligation

7.1 Reporting obligation

The police stated that they were sent lists of who was to report on each day. The reporting obligation is an individual issue. The criteria that determined the frequency of the reporting obligation were not known, but there were differences between categories. As a starting point, residents on tolerated stay were to report daily, while others were to report on Mondays, Wednesdays and Fridays only. Compliance with the reporting obligation was achieved by personally activating the key tag at the police headquarters, which was open from 9 am to 3 pm. Electronic registration was notified automatically to the Immigration Service.

The requirement to attend personally was absolute. One resident refused to attend at the police headquarters due to a previous traumatic experience, thus breaching the reporting obligation on a daily basis without ever leaving the centre.

7.2 Residence obligation

The residence obligation means that residents must live at the centre, and basically stay there overnight every night. However, the foreign national is not detained and will therefore be able to spend time and move around outside the centre, including in the evenings and nights. The critical point is that the foreign national must return to the centre, and the centre must be the place where the person spends the night. The way in which breaches of the residence obligation are administered is that breaches are not registered until the foreign national has been away from the centre for 24 hours. If a foreign national has not used his/her key tag for 24 hours, the Immigration Service will consider whether or not there appears to be a pattern to this absence and whether or not the matter should be reported to the police.

7.3 Notification obligation

From 1 March 2017, residents must notify the Immigration Service if they do not wish to stay at the centre in the period from 11 pm to 6 am. This notification shall be regarded as a reminder that the centre is the resident's place of accommodation. Notification can be done at the gate, which is staffed by the Prison and Probation Service around the clock, or by telephone.

Management stated that it was not until the following week that they expected to find out the more detailed guidelines on the reporting obligation introduced on 1 March 2017 and the consequences of a breach of this.

7.4 Response to breaches of reporting, residence and notification obligations

It is a criminal offence not to comply with the reporting obligation and thus breach the residence and notification obligation. Once a week, the local police send a report to the National Police

Immigration Centre (which is responsible for expulsions) showing whether or not the reporting obligation has been met and, if not, when the breach took place. If charges are pressed, the case is forwarded to be dealt with by the Central Jutland Police.

8. The sections

The majority of residents live in the normal sections. The centre had two special sections – one for foreign nationals with special welfare needs and one for foreign nationals on tolerated stay.

The welfare department accepts foreign nationals who require health or social services beyond those offered to all asylum seekers. The Immigration Service decides whether a person should be placed in a welfare section following recommendation from the staff.

The welfare section and the section for residents on tolerated stay are separately fenced off. The special sections had single rooms, while the others had double rooms. Access to the sections was by biometric key tag, whereby a resident could freely invite others in.

Residents were able to move around the grounds without restriction.

The Red Cross looked after the welfare section and informed us that, among the residents, there were people who were damaged after spending many years in the asylum system. We were told that the person who had probably been in the asylum system for the longest had been there for 28 years.

There were currently 16 residents in the welfare section, of whom four were on tolerated stay. The links with the Red Cross employees were greater in the welfare section than in the ordinary sections.

One resident on tolerated stay showed us his room, which had the appearance of a normal, small prison cell, though with no refrigerator or sink and with a large, old (private) television set.

We were told that one 52-year-old resident had been in Denmark for 18 years. The resident breached the reporting obligation on a daily basis because of fear of the police. The resident is currently receiving assistance from Legal Aid in Copenhagen. Breaches of the reporting obligation could lead to the case being brought to court. In this case, the court should consider not only the breach but also whether or not the duration of the stay is a breach of the principle of proportionality that applies to the relationship between the measure and the nature of the case.

The ordinary sections were not separately fenced off. Here, we visited a section with double occupancy. A single room with a two-person bunk bed was visited. Apart from the bunk bed, there was almost no furniture, although a carpet covered the entire floor. It is not known whether the furniture had been removed or never been there.

9. Catering

A relatively new external supplier provides the catering. The supplier is under obligation to take into account the residents' food preferences and is slow to adapt. The institution has been trying in vain to set up a spokesperson arrangement with regard to diet. The reason for the failure to set this up is that the residents are afraid of each other.

Food is served in the canteen three times a day – at 7 am, 12 noon and 5 pm. Single portion sizes are served but can be added to. The times are determined by staff duty schedules. It is not permitted – nor possible – to prepare food on the sections (see section 4 above). It is not permitted to take food or tableware from the canteen to the sections, nor to store food items in the sections. Residents can, within reason, have white toast and a piece of fruit each day. The refrigerator that was inspected was empty. Apart from the bread and fruit, there is no opportunity for residents to eat between mealtimes. Apart from the group on tolerated stay, the residents have no money and, therefore, no opportunity to buy any additional food unless they obtain money from outside.

The manager at Khg said that she did not see any problems coping with self-catering, but did consider that hygiene perhaps could be a challenge.

There is no shop or kiosk in the area. The nearest shop is in Bording, 6–7 km away. It is possible to buy cigarettes from the staff.

One resident on tolerated stay expressed a very fundamental desire to be able to decide for himself when he could eat, and what he could eat.

10. Activities

On paper, residents have an obligation to take part in activities, although it is difficult to talk about 'obligations' when there are no options for sanctions. Not only that, it is difficult to get any imposed tasks performed, as no wage or other form of allowance is paid, and no appreciation shown.

The activity obligation is complied with through an order for residents to clean their own room and indoor common areas, participation in voluntary activities and education.

The Red Cross runs a job centre with three employees. All newly arrived residents are invited to an interview with the Red Cross within the first seven days about activation during their stay. On the day of the visit, one-third were involved in activities. It is possible to study English at level 1 and 2. Work is occupation-related, using factors that promote motivation. The activation process is currently in the process of being restructured. The Red Cross has opened a wood workshop that offers the chance to repair bicycles. The workshop had the appearance of a therapy workshop. We were told that they had received a large number of second-hand bicycles, which residents were given once they had repaired them. We were also told that opportunities were tight, and that, for example, it was not permitted to buy a lock for the bicycle as this was not part of the activation process. As bicycle production depended on private donations, there were waits of up to three months before a resident could receive a bicycle to repair. The donated bicycle was given as personal property, and residents can take it with them when they move. Management stated that

managing shared bicycles had led to difficulties, which is why the repaired bicycles had now been given as private property.

The Immigration Service stated that they had not imposed any requirement whereby purchased material had to be used for activation purposes, and they were astonished at the prohibition on bicycle locks.

People made small items for themselves at the wood workshop, such as shoe racks.

The workshop manager described the importance of residents being given breathing space – somewhere where they could focus on something practical and revive former skills.

A fair few so-called 'work experience posts' have been set up, allowing residents to do 'work experience' in the canteen or wood workshop. This means that residents have the chance to help at the sites in question, or perform activities of a purely therapeutic nature. The resident receives no wage but undertakes to attend at specific times. If they fail to attend too often, residents are dismissed. The arrangement is administered in a flexible way, and typically there is a waiting list for the posts. The institution has two sewing machines, which the women in particular use for repairing clothes. There is also the new addition of a hairdressing salon. and attempts are being made to set up a chauffeur post. However, this will require special permission due to the question of insurance.

The Immigration Service stated that it had experience of residents being chauffeurs, but that this requires the resident to have a valid driving licence in Denmark.

We were told that the Immigration Service had refused to implement a cookery course. The Immigration Service denied that there had been such a refusal.

There is no 'proper work', e.g. in the form of production or maintenance. All jobs were closed down at the time that the prison at Kærshovedgård was closed. Maintenance of the institution is currently performed by a service worker and two people in subsidised jobs. Management stated that they would like residents to become involved in maintaining the institution, but the fact that it is not possible to pay a wage has meant that it has not been possible to motivate the residents to do this.

A contract between the Immigration Service and the Prison and Probation Service dated October 2016 shows that all residents must take part in tidying and cleaning their own rooms and common areas, as well as in tidying and cleaning surrounding areas. Management stated that the fact that residents cannot be paid wages, and the absence of any options for a response in the case of a breach, has meant that it has been necessary to enter into a contract with a cleaning company to ensure an acceptable standard of cleaning. The institution's service unit tidies up and removes waste from outdoor areas each day.

No wages are paid, but residents on tolerated stay receive DKK 403 every fortnight. No money is paid to the other residents. There are no opportunities to earn money by working.

Management stated that, if the option were available to pay wages, or a small allowance, to the residents, it would be possible to reward work done and demand compensation for damage caused by vandalism.

The Red Cross stated that there was some interest in taking part in voluntary activities. It was stated that many residents did not get up until the middle of the day, which means that the offers were not taken up to a sufficient extent. Work is currently being done to arrange some attractive activities in the mornings, in the hope that this pattern will change.

The Red Cross was able to supply free clothing from its second-hand shops.

11. Healthcare

The Red Cross is in charge of the healthcare service. The prescribed number of nurses is one nurse per 200 residents. Two full-time nurses are employed, along with one nurse who works a 32-hour week and looks after the welfare department. A doctor attends once a week and a psychiatrist once a month. Referrals to the doctor and psychiatrist are made following an assessment by the nurse. There is the option to be referred to a psychologist outside the centre.

The healthcare service offers necessary, urgent and pain-relieving treatment. The healthcare service staff were of the opinion that access to the healthcare system is better than it is for ordinary citizens. It was stated, however, that many residents received no wages and thus were unable to purchase small items, e.g. Strepils.

If necessary, the Immigration Service can appoint a support person to a resident for a few hours a day. Currently, one resident had a support person for six hours a day.

12. Leisure time

The Red Cross had a volunteer coordinator, who on the day of the visit had a contract with 12 volunteers from the local area. In March, the volunteers will be starting a women's club, which will meet once a week and run a cafeteria once a week. There was a desire to bring more volunteers on board with a view to expanding the volume of activities.

In principle, residents are able to make use of leisure facilities in the local area, in the form of access to the area's sports clubs and a nearby fishing lake. In practice, however, these options are limited by financial constraints. The Red Cross has arranged a number of fishing trips.

The centre has a newly-opened fitness unit. There is also a cinema. This is currently not in use, while awaiting permission from the Immigration Service to make a fire exit.

The Immigration Service stated that it was not aware of such an application. Management has subsequently stated that the reason why the cinema has not been used is that some rebuilding work is necessary to prevent direct access to the nursing unit, where medicines are stored.

The Red Cross has a number of Internet-enabled PCs available that residents will be able to use.

A number of residents have their own cars and occasionally take a group of people with them to the nearest town.

The Red Cross stated that it would like to take residents on occasional trips around the area but is awaiting a reply from the Immigration Service about the possible takeover of one of the vehicles from the Sandholm camp. The Immigration Service stated that it had not received such an application.

Both management and the Red Cross would very much like to get hold of a car that could be used to drive the residents about. It was considered that one of the residents on tolerated stay could act as chauffeur. The Immigration Service stated that it had experience of residents being chauffeurs, but that this requires the resident to have a valid driving licence.

13. Security and order

A set of house rules is under revision, as there is a desire for uniform rules for Sjælsmark and Kærshovedgård. Enforcing house rules could be difficult as the centre has no response options available in the event of a breach.

Access to the sections, including special sections and residents' rooms, is via the biometric key tag. However, it is not possible to prevent a resident from letting other residents in.

Management stated that, at any time, around 10 per cent of the residents spoiled things for the others, and there was no possibility of transferring residents as Kærshovedgård was the final station. The Immigration Service stated that transfers were possible in very special situations if all other options had been exhausted.

When placing people in the centre, no consideration was given to the possibility that some residents may be afraid of each other. Specifically, the case was mentioned of two brothers who were so afraid of the other residents that they were guarded by hired security staff 24 hours a day. Despite this expensive arrangement, and the fact that a doctor had recommended a transfer for a brief period, it was decided not to transfer the brothers. It was stated that the arrangement using guards had solved the problem.

Drunkenness was a major problem, with one section in particular being troubled by noise and vandalism.

Threats and violence were notified to the Immigration Service, who were informed if the cases had been reported to the police. Notification is done using the same guidelines as those used by the Prison and Probation Service, which makes it possible to make comparisons if required.

The Immigration Service states that the notifications are monitored, but that no statistics on these are maintained.

It is quite permissible to search the premises, but not known what should be searched for. There are no guidelines. Apart from illegal items such as knives and weapons, it is not clear what is permitted.

Body searches of residents are not permitted.

The police, who are present at the centre around the clock, are contacted in the event of any unrest.

14. Personnel

The Prison and Probation Service's day-to-day management is the responsibility of Unit Manager Peter Smelftrup, who reports to the Head of the Institution, Anne Marie Borggaard, who is also the Governor of the Central Denmark (Midtjylland) Prison (Nr. Snede). The Unit Manager was appointed two months ago, having previously worked in the military.

Personnel are appointed by the Prison and Probation Service, the Red Cross and the Police. The local personnel report to the Directorate of the Prison and Probation Service, Danish Red Cross and National Police Immigration Centre, respectively. Quarterly meetings are held between the Immigration Service, the Directorate of the Prison and Probation Service and the Heads of the Institutions of Khg and Sjælsmark. In addition to these, regular operational meetings are held between Khg, the local police, the immigration police and the Red Cross, as required. Finally, ongoing meetings are held at a technical level.

To take care of day-to-day operations, the:

Prison and Probation Service has appointed:

- Prison Officers. By order of the Directorate of the Prison and Probation Service, there must be a maximum of three officers on duty at a time, and – from 1 August 2017 – these must rotate with officers from Nr. Snede every six months. Allegedly, this restriction is due to a shortage of prison officers generally in the Prison and Probation Service, and the reason for the rotation is supposedly a desire to ensure that officers maintain their prison know-how.
- Institutional employees. Institutional employees are required to have passed the 9th grade leaving examination and must be able to speak and understand Danish. There are no other educational requirements. The idea is for them to complete a short course, covering – among other things – conflict management and cultural differences, with the rest of their knowledge being gained through peer-to-peer training. There are currently five institutional employees, two of whom are retired prison officers. One institutional employee stated that she had previously been an unemployed textile worker and had been given a few days' peer-to-peer training but no real training. Management stated that, when choosing institutional employees, the emphasis was on resilience.
- Canteen staff for serving and preparing green salad (food is otherwise provided from outside).
- Employees in the storehouse.
- A works manager on load from Central Denmark (Midtjylland) Prison, who previously worked at Kærshovedgård and who now occupies the post of service worker (a form of caretaker function) along with two subsidised employees.
- A cleaning company, which cleans the common areas at regular intervals.

Red Cross employees:

- The Red Cross is in charge of staffing the welfare department (three people), enabling residents to get into work or training (three people), the healthcare service (two people working 37 hours a week and one working 32 hours), and one post for coordinating volunteers from outside.

The Danish Refugee Council.

- Once or twice a month, a member of staff visits the centre to provide help to the residents, including guidance on the possibilities of having the case put to the Danish Refugee Appeals Board or brought before a court, and help with removal to their home country.

The Police

- The police have offices in one of the buildings at the centre. On the day of the visit, two members of the local police were present.

It seems immediately worrying that the day-to-day operation of the Prison and Probation Service to an extent is being run by untrained staff – which is what the institutional employees are, in fact – and, shortly, by regularly changing prison staff. Once the rotation arrangement takes effect, the permanent staff will soon consist entirely of institutional employees. The day-to-day running requires a great deal of knowledge about dealing with vulnerable people in stressful situations, knowledge of foreign cultures, a great deal of patience on the part of the staff, and the ability to ‘talk down conflicts’. When making the assessment, the fact that some residents are on a tolerated stay, and may therefore be staying for a fairly long time, should also be taken into account. The centre does not have the same means of enforcement that are available in prisons, and there is no option to transfer or isolate troublemakers. It is the job of the staff to deal with anxious, aggressive, traumatised people in a community characterised by inactivity.

It is reassuring to have a police presence around the clock, but help is only received from this quarter when there have been breaches of criminal law or a breach of the Danish Police Act on the maintenance of peace and order in a public place. The police are not involved in maintaining peace and order of a more disciplinary nature in the day-to-day running, such as problems with the cleaning, things being taken from the canteen, etc.

Given the stressful working conditions, there is regular group supervision once a month, while the supervisor can also be assigned to individual discussions on a weekly basis.

There are no interpreters at the institution. If there is a need for an interpreter, then by agreement a fellow resident can be used; alternatively, a telephone interpreter service can be used, or a request sent for an interpreter. However, there is not normally any need for an interpreter.

Management considers that there is a need for a proper social worker. The forthcoming contract with the Immigration Service seeks to have this request met.

Appendix 2

Letter from the Danish Immigration Service dated 19 September 2017 with general and more detailed comments on the report on Centres for Foreign Nationals and Deportation Centres in Denmark

Office for Accommodation Conditions



**Udlændinge- og
Integrationsministeriet**

Udlændingestyrelsen

19 September 2017
Danish Immigration
Service
Ryesgade 53
DK-
2100 Copenhagen Ø
Tel.: +45 35 36 66
00
www.nyidanmark.dk

On 12 June 2017, the Danish Helsinki Committee forwarded a report on Centres for Foreign Nationals and Deportation Centres in Denmark.

The Immigration Service's reading of the report has led to a number of general and more detailed comments about the Committee's report.

The comments by the Immigration Service can be found below.

Basic information about the Kærshovedgård and Sjølsmark Deportation Centres

Kærshovedgård began operating as a Deportation Centre on 21 March 2016. Kærshovedgård had previously operated as an open prison. Kærshovedgård is staffed for a level of occupancy of 400 people and has a maximum capacity of 600 places. The Deportation Centre is run by the Danish Prison and Probation Service on behalf of the Immigration Service. The setting up of the Kærshovedgård Deportation Centre is an implementation of the Government's asylum package from the autumn of 2015. The Kærshovedgård Deportation Centre was set up to supplement the existing Deportation Centre at Sjølsmark. Deportation Centres are asylum centres, and the setting up of deportation centres is part of strengthening the effort to achieve the quick and effective expulsion of foreign nationals with no legal right to stay in Denmark, and to hasten the departure of these people.

On a number of occasions in the report, the Danish Helsinki Committee talks about groups of residents as 'those sentenced to deportation by a court, and those ordered to be deported who cannot

travel as their nationality cannot be established’¹¹ and, furthermore, that ‘Kærshovedgård receives foreign nationals whose asylum claim has been rejected and who are not leaving because: 1) they have been placed on tolerated stay because of the refoulement prohibition in Section 31 of the Aliens Act; 2) their nationality cannot be established; 3) they refuse to leave, including cases where their departure date has passed; or 4) they will not cooperate with the issue of the necessary travel documents, which is a prerequisite for sending them home...’¹²

The Service would here point out that the correct categorisation of the groups of people accommodated at the Deportation Centres is as follows:

Kærshovedgård:

- adult women and men whose application for asylum has been finally rejected, whose deadline for departure has passed and who are not essentially cooperating with the expulsion
- persons sentenced to deportation by a court, both those in a position of being expelled and those with pending asylum cases
- persons on a tolerated stay
- other foreign nationals without a legal right to stay

Sjælsmark:

- couples with and without children whose application for asylum has been finally rejected, whose deadline for departure has passed and who are not essentially cooperating with the expulsion
- persons who have been rejected in accordance with the special expedited procedure for manifestly unfounded asylum cases, and
- persons who are to be returned to another EU/EEA country under the Dublin regulation.

The Immigration Service stresses this as a general comment because the notes on Act no. 1273 of 20 November 2015 to amend the Danish Aliens Act (Management of the refugee and migrant situation) make it clear which groups of people are to be accommodated at the Deportation Centres.

In its report, the Helsinki Committee also indicates that ‘common to the centres is the fact that placement follows a decision by the Immigration Service.’¹³ The Service would like to point out in this regard that it is incorrect to use the term ‘placement’ as, properly speaking, the Service accommodates the foreign nationals in question at the centres.

Transfer to deportation centres

Using the report as a starting point, the Immigration Service would like to explain the process in detail of how the asylum cases of the people in question are processed – and how the asylum case affects the accommodation conditions.

Whether or not an asylum seeker can be given asylum in Denmark is decided in the first instance by the Immigration Service and in the second, where applicable, by the Refugee Appeals Board. During the processing of an asylum case, the asylum seeker normally lives at a so-called accommodation centre.

¹¹ Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. Introduction, page 4

¹² Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. Para. 5, the residents at Kærshovedgård, page 9

¹³ Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. Para. 3 The Sjælsmark and Kærshovedgård deportation centres in general, page 8

If an application for asylum is finally rejected, the person in question must leave Denmark, and a deadline for departure will be set. If the person does not leave the country in accordance with the departure deadline, it is the job of the police to take charge of the departure.

If the person will not cooperate in leaving the country, the police must specifically consider whether or not there are grounds to detain the person. If there are no grounds for detention, the police will consider whether

to recommend to the Immigration Service that the person should be transferred to the deportation centre. The Immigration Service then decides who is to be transferred to the deportation centre.

As far as deported foreign nationals with a criminal record and a pending asylum case are concerned, there is, of course, no requirement for them to cooperate in leaving the country, as no departure deadline will have been set for this group of people. Nor is there any requirement for people on a tolerated stay to cooperate in leaving the country, as under Section 31 of the Aliens Act (the *refoulement* prohibition), this group of people cannot be forcibly removed.

Residence and notification obligation

In several places in the report, the Helsinki Committee describes the conditions for those accommodated at the deportation centres, including the obligations to which the foreign nationals in question are subject.

In general, the Immigration Service would explain that the people subject to a residence obligation are:

- Foreign nationals sentenced to deportation by a court and foreign nationals on a tolerated stay.
- Foreign nationals whose application for asylum has been finally rejected and who do not cooperate in leaving the country.
- Other foreign nationals staying in Denmark illegally and who do not cooperate in leaving the country.

Therefore, not all residents at a deportation centre are necessarily under a residence obligation. A vital consideration underlying the residence obligation is the need to ensure that the authorities know where the people in question are residing. The authorities' knowledge of the place of accommodation of the people in question is important if they are to be expelled from the country. Particularly in the case of people on a tolerated stay and those who have been sentenced to deportation by a court, the residence obligation also satisfies the need to show regard to national security and public order.

The residence obligation means that the person must live at the centre and basically stay there every night. The person in question is not detained. In other words, the person is free to spend time and move around outside the centre during the evenings and nights, e.g. to visit friends and acquaintances, without the need to be back at a certain time. The essential thing is that the person must return to the centre, and the centre must be the place where the person spends the night. A specific assessment will be made as to whether or not a resident who is subject to a residence obligation has spent time away from the centre to such an extent that the person has breached

his/her residence obligation. However, as a basic starting point, a breach of the residence obligation occurs when the person has been away from the deportation centre for more than 24 hours. Breaches of the residence obligation is a criminal offence under

Section 60 of the Aliens Act, and the Immigration Service consistently reports cases of non-compliance with the residence obligation to the police.

The Helsinki Committee states in its report that ‘there are residence, reporting and notification obligations at both centres’. The maximum penalty for breaching the residence and reporting obligation is 18 months’ imprisonment.’¹⁴

In addition, the Immigration Service would point out that contravention of an order given pursuant to Section 34 (4) and (5), or Section 42a (8)(1) and (10), is punishable by imprisonment not exceeding 18 months. It is pointed out that the maximum penalty of 18 months’ imprisonment applies only to people who have been sentenced to deportation by a court and to people on a tolerated stay (see Section 60(2) of the Aliens Act).

As far as the notification obligation is concerned, the Immigration Service would point out that people subject to a notification obligation are:

- People on a tolerated stay
- People sentenced to deportation by a court.

Therefore, not all residents at a deportation centre are necessarily under a notification obligation. A resident has a notification obligation only if the Immigration Service has decided this. It is perfectly possible for a resident to have a residence obligation without a notification obligation, but not for a person to have a notification obligation without at the same time having a residence obligation.

The purpose of the notification obligation is to prevent breaches of the residence obligation, as well as to clarify and remind the person of the residence obligation.

The notification obligation means that the person must inform the place of accommodation if they are not staying at the centre during the period from 11 pm to 6 am. This applies both if the person is staying the centre but leaves the centre during the day, and if the person is staying away from the centre and is not expecting to return before 11 pm.

On the other hand, the person is under no obligation to say where instead he or she is staying; nor under this arrangement does the Prison and Probation Service decide whether or not the person may leave the centre.

Notification must be given in person and only covers the first night. The person in question has an obligation to provide notification each time he or she is thinking of not staying at the place of accommodation between the hours of 11 pm and 6 am.

There are only two ways in which to comply with the notification obligation:

14 Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. para. 3 – The Sjølsmark and Kærshovedgård deportation centres in general, page 8

- By the person verbally informing the staff at the centre that he or she is now leaving the site and will not return until after 11 pm.
- By the person providing electronic notification that he or she will not be at the centre from 11 pm to 6 am. This is done using an answerphone administered by the Immigration Service.

If the person has applied to the Immigration Service for permission to stay overnight away from the centre, and the Service has given such permission, there will be no obligation for the person to give notice that he or she is staying away from the centre.

The same applies in situations where the person leaves the place of accommodation without giving notification, but the Immigration Service subsequently gives permission for the stay outside the place of accommodation. This could, for example, be the case if the person is taken acutely ill and must therefore be admitted to hospital.

It is a criminal offence to contravene the notification obligation (see Section 60 of the Aliens Act), and the Immigration Service consistently reports cases of non-compliance with the notification obligation to the police.

Electronic access control

In terms of electronic access control, the Immigration Service would point out that it is immediate apparent from the notes on Act no. 1273 of 20 November 2015 to amend the Danish Aliens Act (Management of the refugee and migrant situation) that electronic access control has been implemented for reasons of security and order, and that its general purpose is to enhance the checks on who is resident at the centre. It is not true, therefore, when the Helsinki Committee states in its report: ‘The Immigration Service is thus always able to record all movements into the residents’ rooms that require a key, as well as movements in the area’¹⁵

The Immigration Service would point out that this is an electronic access control system, and that what is recorded for checking purposes are arrivals at/departures from the centre. No checks are performed on where at the centre the person is located. This is a case of recording and checking arrivals/departures, with a view to monitoring the residence obligation at the centre.

The notes on Act no. 1273 of 20 November 2015 to amend the Danish Aliens Act (Management of the refugee and migrant situation) state as follows: ‘It is proposed that, in future, an electronic access control system should be established at the deportation centres, and that electronic access control should be implemented using fingerprint scanners. The Ministry of Immigration, Integration and Housing (now the Ministry of Immigration and Integration) finds that the use of fingerprints in connection with electronic access controls is a more secure method of preventing unauthorised persons from having access to the centre, as a secure identification is thus performed on those people wishing to have access. Electronic access control has been implemented for reasons of security and order, and its general purpose is to enhance the checks on who is resident at the centre. As the Ministry of Immigration, Integration and Housing (now the Ministry of Immigration and Integration) sees it, there is nothing that would prevent setting up an accommodation centre with access controls in a way that would also allow information to be collected on

15 Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. para. 6, assessment of conditions at Kærshovedgård, page 10

whether or not a foreign national is actually staying at the centre. If fingerprint scanners are used, this could be done if the fingerprints of foreign nationals could be read when they arrive at or depart from the centre.

Opportunities for absence from the centre/contract with family and other conditions

The residents at the Deportation Centre are not detained and can therefore come and go at the centre.

However, residents are essentially subject to a residence obligation. This means that they have an obligation to reside at and, essentially, spend the night at the centre each night. People subject to a residence obligation must only spend the night away from the centre if the Immigration Service has given specific permission.

In addition, many of the residents will be subject to an obligation to report to the police several times a week.

Criminal deportees and people on tolerated stay will also, as a starting point, be subject to a notification obligation.

As an extension of the requirement for the person to live and, generally, spend the night at the centre, a clear starting point is that the person must apply for prior permission to spend the night outside the centre. The application must preferably reach the Service by no later than a week beforehand. Permission must be given immediately in order not to miss out on the purpose of the exemption. In practice, the Immigration Service has processed applications for permission as quickly as possible and within five working days. In very special cases, the Immigration Service has pre-approved applications by telephone, precisely with a view to avoid missing out on the purpose. With regard to the Committee's report, the Immigration Service needs to point out that the report is incorrect when it states that 'there does not appear to be any option for exemptions in emergencies – for example, in the event of the death in the immediate family, or attendance at the birth of the person's child, etc...' ¹⁶.

The Immigration Service would point out that, actually, in emergency cases – such as an immediate need for a visit due to illness or other urgent circumstances – exemption is granted immediately for the person to spend the night away from the centre. This is so as not to miss out on the purpose of the exemption.

In general, the Immigration Service grants permission to spend the night away from the centre in cases of:

- weekend visits to close family members living here
- serious illness of a close family member
- admission to hospital
- visits to friends on the occasion of festivals, birthdays, etc.

With the process of applications for permission to stay overnight away from the centre, it may in that case be necessary to change the reporting obligation in conjunction with a possible absence from the centre. For the same reason, the Immigration Service finds it necessary to correct the Helsinki Committee's assertion that 'opportunities to spend time away from the centre are, however, limited by Khg's isolated location, as well as the fact that there is an obligation, under penalty of criminal liability, to report to the centre's local police' ¹⁷. The Service would add to this that it informs the police of any decisions on permission to spend the night away from the centre,

¹⁶ Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. para. 6, assessment of conditions at Kærshovedgård, page 11

¹⁷ Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. para. 6, assessment of conditions at Kærshovedgård, page 11

upon which the police decides on the extent of the reporting obligation. Typically, an exemption to the reporting obligation will be given for the period during which the Service has given permission for the person to spend the night away from the centre.

In practice, the Immigration Service gives permission for overnight stays away from the centre for regular visits (e.g. weekend visits to close family members every other weekend), or where it equates to around four overnight stays per month with family/friends over an overall period of no more than three months at a time. This means that, for example, the Service has given permission for the person to spend the night away from Friday to Sunday every other weekend for a period of three months.

With regard to spending time together/visits to the deportation centres, the Helsinki Commission describes in its report that ‘there are no restrictions on visits, but visitors would only be able to get there if they had access to a car. There are no opportunities to stay overnight and no possibility of privacy unless the person is living in a special section. There is therefore in practice no secured opportunity for regular contact with any family living here...’¹⁸

In this regard, the Service would like to point out that visits *can* take place, and that for this reason a visitors’ room is being set up, among other things. The same opportunities and frameworks apply to visits as those with which residents will be familiar from the normal accommodation centres.

As well as the question of physical arrangements and the opportunities for visits, the Immigration Service can also state that the conditions of the rooms for people on a tolerated stay have also been improved at the Kærshovedgård Deportation Centre compared with those during their previous stay at the Sandholm Centre, as this group of people at the Kærshovedgård Deportation Centre is now offered accommodation in single rooms.

With regard to the opportunities for visits, the Helsinki Committee has also highlighted that opportunities to spend time with families and friends are already complicated by the fact that ‘the residents came from the Sandholm camp and may therefore very well have family or friends in Copenhagen’¹⁹. In this connection, the Immigration Service can only point out that the residents at the deportation centres come from accommodation centres throughout Denmark.

As far as the other conditions for residents are concerned, the Immigration Service would also like to focus on the Helsinki Committee’s information regarding the payment of benefits. The report states, among other things, that ‘apart from those on tolerated stay, foreign nationals have no opportunities to earn a wage or allowance, and thus no opportunity to buy train tickets’²⁰

On this point, the Service would like to point out that foreign nationals with a criminal record who have been sentenced to deportation and who cooperate with their departure, or who have a pending asylum case, also have the opportunity to earn additional benefits provided that they meet the terms of their contract with the operator.

¹⁸ Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. para. 6, assessment of conditions at Kærshovedgård, page 11

¹⁹ Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. para. 6, assessment of conditions at Kærshovedgård, page 10

²⁰ Report on Centres for Foreign Nationals and Deportation Centres in Denmark, re. para. 6, assessment of conditions at Kærshovedgård, page 10