

Committee against Torture

Concluding observations on the eighth periodic report of Denmark*

1. The Committee considered the eighth periodic report of Denmark¹ at its 2050th and 2053rd meetings², held on 8 and 9 November 2023, and adopted the present concluding observations at its 2067th meeting, held on 22 November 2023.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation, and the responses provided to the questions and concerns raised during the consideration of the eighth periodic report.

B. Positive aspects

4. The Committee welcomes the ratification of or accession to the following international treaties by the State party:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 13 January 2022; and

(b) The Protocol of 2014 to the International Labour Organization Forced Labour Convention, on 14 June 2017.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of the following:

(a) Act No. 140 of 28 February 2018, amending the Penal Code, Statute of Limitations Act, Liability in Damages Act and Victim Compensation Act, removing criminal and civil statutes of limitations in cases of child sexual abuse;

(b) Act No. 329 of 30 March 2019, amending the Penal Code and inserting an independent section on psychological violence;

(c) Act No. 2208 of 29 December 2020, amending the Penal Code and introducing a new consent-based definition of rape;

* Adopted by the Committee at its seventy-eighth session (30 October–24 November 2023).

¹ CAT/C/DNK/8

² See CAT/C/SR.2050 and CAT/C/SR.2053.



(d) Act No. 2600 of 28 December 2021, amending the Penal Code, Administration of Justice Act and Act on Restraining Orders, introducing new provisions on stalking;

(e) Act No. 2617 of 28 December 2021, amending the Psychiatric Act, introducing new safeguards relating to coercion in psychiatric settings;

(f) Act No. 69 of 5 May 2022 amending the Penal Code of the Faroe Islands and introducing a new consent-based definition of rape and criminalization of non-consensual sexual acts;

(g) Act No. 696 of 24 May 2022, amending the Penal Code, Administration of Justice Act and Immigration Act, introducing new provisions prohibiting human exploitation;

(h) Act No. 893 of 21 June 2022, amending the Penal Code, Sentence Enforcement Act and Administration of Justice Act, aimed at reducing the use of solitary confinement as a disciplinary measure;

(i) Administrative Order No. 923 of June 2023, amending Administrative Order No. 185 of March 2009, regarding the entry into force of the law on coercion in psychiatry in the Faroe Islands.

6. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular the following:

(a) The 10-year action plan for the improvement of mental health and psychiatric care, in 2022;

(b) The National Action Plan to Combat Trafficking in Human Beings, 2022-2025, in 2022;

(c) The establishment of the Committee for the Independent Criminalization of Torture, War Crimes and Crimes against Humanity and ratification of the amendment to the Rome statute on the crime of aggression, in 2023;

(d) The National Action Plan to Combat Intimate Partner Violence and Intimate Partner Killings, 2023-2026, in 2023;

(e) The Faroese National Action Plan to Combat Intimate Partner Violence and Intimate Partner Killings, 2023-2026, in 2023.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations, the Committee requested the State party to provide information on its implementation of the Committee's recommendations on: the incorporation of the Convention in domestic law; the deportation of vulnerable individuals; the screening of and assistance to asylum seekers who are victims of torture; and separation of convicts and remand prisoners. Noting that a reply concerning the information sought by the Committee was provided on 9 December 2016, and with reference to the letter dated 10 May 2018 from the Committee's rapporteur for follow-up to concluding observations, the Committee considers that the State party has taken substantive steps towards the implementation of the recommendations included in paragraph 23, and that the recommendations included in paragraphs 13, 21 and 37 have not been implemented. The outstanding issues addressed in the previous concluding observations are covered in paragraphs 9, 15, 19 and 43 of the present concluding observations.

Definition and criminalization of torture

8. While noting recent efforts by the State party to implement previous recommendations of the Committee regarding the inclusion of a specific provision in its Penal Code to criminalize torture as a distinct offence, including the establishment of an expert committee

tasked with this matter, the Committee is concerned that neither the Danish Penal Code, nor the Military Criminal Code, contain such a provision. The Committee is similarly concerned that neither Greenlandic, nor Faroese criminal law contains a similar provision. Drawing the attention of the State party to general comment No. 2 (2007) on the implementation of article 2 by States parties, the Committee recalls that, by naming the offence of torture as distinct from other crimes, States parties will directly advance the overarching aim of preventing torture and ill-treatment by, inter alia, alerting everyone — including perpetrators, victims, and the public — to the special gravity of the crime of torture; strengthening the deterrent effect of the prohibition itself; and enhancing the ability of responsible officials to track the specific crime of torture (arts. 1, 2, 4 and 16).

9. The Committee reiterates its previous recommendations³ to make torture a punishable offence per se, and emphasises the importance of including a definition of torture which fully encompasses that provided in the Convention.

National Preventive Mechanism

10. The Committee is concerned that, although the State party ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in 2004, and despite the applicability of the Optional Protocol to the territories of both the Faroe Islands and Greenland, the State party's national preventive mechanism still lacks a mandate to carry out preventive visits in Greenland. The Committee is also concerned that, of the visits carried out, only a small percentage are unannounced (arts. 2, 11 and 16).

11. The State party should ensure that the national preventive mechanism is endowed with a sufficient mandate to carry out visits to all places of detention, and their installations and facilities, both within its territory and under its jurisdiction.

Fundamental legal safeguards

12. The Committee expresses its concern over information received indicating that persons deprived of their liberty are not always provided with sufficient legal safeguards from the outset of their detention. Specifically, the Committee is concerned that:

(a) Access to legal representation, including during police interviews, is not always swiftly granted, and that some detainees only meet with a lawyer minutes before appearing in court for remand hearings. In addition, requests to see a lawyer and police responses are reportedly not systematically recorded;

(b) Persons deprived of their liberty are reportedly not always adequately informed of their rights, notably as a result of unavailable or inadequate interpretation or translation services;

(c) As per Circular no. 9155 of 18 March 2010, under certain circumstances, the right of a detained person to notify their relatives or another person of their choice may be delayed or denied. However, such delay or denial is at the discretion of the officer on duty or the investigating officer and is not subject to additional approval, for example by a commanding officer. Moreover, the delay or denial of notification is not codified in legislation, nor is a maximum time limit on denial provided for (art. 2).

13. The State party should ensure that all fundamental legal safeguards are guaranteed, both in law and in practice, for all detained persons from the outset of their deprivation of liberty, including:

(a) **The right to access and consult with a lawyer and have the confidentiality of private meetings guaranteed, including prior to interrogation, and, if necessary and applicable, access free legal aid;**

³ See, for example, CAT/C/DNK/CO/6-7, para. 11 and CAT/C/DNK/CO/5, para. 10.

(b) The right to be comprehensively informed of their rights, the reason for their arrest, and any charges against them, in a language they understand and in an accessible manner;

(c) The right to notify a relative or another person of their choice of their detention immediately after apprehension. In cases where this right is limited for legitimate reasons relating to the effectiveness of an ongoing investigation, such limitations should be clearly provided for by law, bound in time with specified maximum durations, and subject to both judicial review and independent approval by a superior officer.

Principle of non-refoulement, migration and use of diplomatic assurances

14. The Committee is concerned by the alleged reliance of the State party on diplomatic assurances to justify the return of asylum seekers to countries where there may otherwise be substantial grounds for believing that the person would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment or may subsequently be subject to chain refoulement. In a similar vein, the Committee is concerned over legislation passed by the State party, which provides a basis for the externalization of asylum policy and related plans for the processing of asylum claims in Rwanda. The Committee also expresses its concern over the apparent onus placed by the State party on asylum seekers because of temporariness of asylum, noting the introduction in 2019 of a system whereby the asylum status of persons receiving international protection is subject to a regular mandatory review upon the expiration of residence permits, rather than on the basis of new information indicating a change in conditions in the country of origin, and notes the detrimental effect that this may have on the mental health of refugees, including many victims of torture. The Committee further expresses its concern over the conditions of persons remaining in Denmark under the regime of tolerated stay, including for periods of fifteen years or more. The Committee is concerned that such persons experience significant limitations on their ability to choose a residence, with a general rule being that they must take residence at a return centre, and are prohibited from working. Finally, the Committee regrets the lack of information received regarding the process it applies in implementing decisions of the Committee made under its individual communications procedure in accordance with article 22 of the Convention. (arts. 2, 3, 11, 13, 14 and 16).

15. The State party should ensure that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. In particular, it should:

(a) Refrain from seeking and accepting diplomatic assurances, in the context of both extradition and deportation, from States where there are grounds for believing that a person would be at risk of torture or ill-treatment upon return, or where there are grounds to believe that chain refoulement may occur to a state where there are such grounds. The State party should also ensure that any deportation or extradition undertaken on the basis of diplomatic assurances is accompanied by continued and extensive monitoring of the person's situation in the receiving country and that diplomatic assurances are not used as a loophole to undermine the principle of non-refoulement as set out in article 3 of the Convention;⁴

(b) Revisit legislation allowing for and plans concerning the externalization of asylum policy, fully taking into account international standards and the guidance of international and regional bodies mandated to examine issues related to migration;

(c) Ensure that reviews of asylum status are only undertaken on the basis of new information indicating a fundamental, stable, and durable change in the conditions in the country of origin, and that protection in the country of origin is effective and available;

(d) Review the regime of tolerated stay to ensure that persons in protracted situations may have access to work and be able to freely choose their own residence;

⁴ CAT/C/GC/2: General comment No. 2 (2007) on the implementation of article 2 by States parties.

(e) Continue to place onus on the implementation of the decisions of the Committee in the context of its individual communications procedure under article 22 of the Convention.

Extraterritorial incarceration

16. The Committee is concerned over plans introduced by the State party to extraterritorially incarcerate third-country nationals who have committed crimes, prior to their deportation. Specifically, the Committee takes note of the stated intention of the State party to lease a prison facility in Kosovo,⁵ and is concerned over the ramifications that this may have on inmates' access to healthcare and family visits. The Committee is also concerned that although the State party has stated that the prison itself will be subject to Danish jurisdiction, questions remain regarding the disciplinary authority and criminal jurisdiction for acts of torture or ill-treatment which may be committed by prison staff, access of monitoring mechanisms, and investigatory competencies in cases of such allegations. The Committee is further concerned over the potentially discriminatory nature of this regime, which is allegedly forecasted to differentiate treatment of detainees on the basis of nationality and family status (arts. 2, 3, 5, 11-13 and 16).

17. The State party should refrain from leasing detention facilities outside its territory and ensure that persons deprived of their liberty are not discriminated against on the basis of their nationality or family status. The State party should similarly ensure that all incarcerated persons have access to healthcare and effective channels of complaint on an equal basis, and that no undue or discriminatory restrictions are placed on their right to maintain family ties while in prison.

Conditions of detention

18. While acknowledging that material conditions in prisons in the State party are generally of a high quality, the Committee expresses concern over remand detention facilities which are generally of an inferior quality, and which reportedly lack the facilities and activities provided in prisons. In addition, the Committee is concerned by:

(a) Prisons, return and deportation centres, and remand centres operating at close to, or above, maximum capacity, and insufficient staffing. The Committee notes that high occupancy rates and low staffing have a direct correlation with increased recourse to use of disciplinary measures by staff, reduced quality in the implementation of dynamic security principles, reduced access to educational and recreational facilities, and reductions overall contact with the outside world for persons deprived of their liberty;

(b) The high proportion of individuals detained on remand and the low usage of alternatives to detention. The Committee is concerned by information indicating an increase in the total duration of pretrial detention in recent years and a restrictive regime for detainees who, in some cases, are confined for up to 23 hours per day in their cells, amounting to de facto solitary confinement. The Committee highlights that reduced usage of alternatives to detention is a notable contributing factor to overcrowding. The Committee is also concerned by the lack of legislation adequately regulating the conditions of detainees in pretrial detention;

(c) Sentenced prisoners who are required to serve their sentences in remand centres. While underscoring that international standards require that untried prisoners be kept separate from convicted prisoners, the Committee is also concerned that the conditions in remand centres are inappropriate for individuals serving a criminal sentence;

(d) Court restrictions on contact with the outside world placed on a high proportion of remand prisoners, known as "Brev-og Besøgsforbud", which are allegedly applied without due consideration of the detained person's individual circumstances, and which are disproportionate to the needs of the ongoing investigation they are implemented to serve;

⁵ Throughout this document, the reference to Kosovo shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

(e) Insufficient information provided to prisoners upon reception in prisons regarding their rights and responsibilities, including due to lack of appropriate interpretation and translation of available documentation;

(f) The systematic usage of strip searches in certain detention facilities requiring detainees to remove their clothes in an undignified manner, and which are not based on an individual evaluation of the necessity and proportionality of the search, nor the likelihood of the individual being searched having committed any wrongdoing;

(g) Insufficient access to medical care in remand centres, return and deportation centres, and prisons, which in some cases have no medical staff available at night-time or on weekends, and lack of medical confidentiality in some cases for prisoners and detainees, as is allegedly the case for prisoners in certain locations assigned to a high-risk regime (arts. 2, 3, 11 and 16).

19. The State party should:

(a) **Continue its efforts to improve the conditions of detention in all places of deprivation of liberty and alleviate the overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures and the recruitment of an adequate quantity of trained staff. In this regard, the Committee draws the State party's attention to the Nelson Mandela Rules, the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Consider introducing legislation to adequately regulate the conditions and rights of prisoners in remand detention and act to end the de facto solitary confinement of prisoners on remand, including through the provision of adequate financial, material, and human resources to remand centres;**

(c) **Ensure that untried prisoners are kept separate from convicted prisoners, in line with international standards, and that convicted prisoners are kept in adequate facilities with access to work, education and recreation;**

(d) **Ensure that all restrictions placed on the contact of prisoners on remand with the outside world are necessary and proportionate and take into account the individual circumstances of each case;**

(e) **Ensure that all prisoners, upon their reception in prisons, receive adequate information on their rights and responsibilities, including on avenues of complaint, in a language they understand and in an accessible manner;**

(f) **Limit the practice of strip-searching persons deprived of their liberty to exceptional cases and ensure that, if such searches are carried out, they are accompanied, at a minimum, by a reasonable suspicion of wrongdoing, and that the criteria of necessity, reasonableness and proportionality are met, in accordance with rules 50 to 53 of the Nelson Mandela Rules. Searches should also be carried out in a manner which maintains the dignity of the person being searched, and prisoners should never be required to be completely naked for the purpose of a search;**

(g) **Ensure that the necessary financial, material, and human resources are allocated to prisons, return and deportation centres, and remand centres to provide prisoners and detainees with adequate health care, including through the recruitment of qualified staff. Prisoners requiring psychiatric care should be provided with adequate care in an expeditious manner, including in psychiatric facilities if necessary.**

Solitary confinement and voluntary exclusion from association

20. The Committee takes note of recent efforts undertaken by the State party to reduce the use of solitary confinement and set maximum durations for its use through the amendment of the Sentence Enforcement Act. However, the Committee remains concerned that under certain circumstances, the duration of solitary confinement may extend to up to four weeks. The Committee is also concerned that the law still provides for the imposition of solitary confinement as a disciplinary sanction for juveniles, and that while the general maximum

duration of solitary confinement for juveniles is established at seven days, this can also be extended under certain circumstances. With regard to inmates who have voluntarily chosen to exclude themselves from association with other inmates, the Committee is concerned over the psychological effects that this may have on such inmates, given that they frequently stay up to 23 hours per day in their cells, and considers it to be a matter of concern that no rules or instructions are in place to mitigate the harmful psychological effects that inmates who are voluntarily excluded from association may experience (arts. 2, 11 and 16).

21. The State party should ensure that solitary confinement is used only in exceptional cases as a last resort, for as short a time as possible - not exceeding 15 days, subject to independent review, and only pursuant to the authorization by a competent authority, in accordance with rule 45 (1) of the Nelson Mandela Rules. The State party should also immediately end the practice of solitary confinement of children in detention, including de facto solitary confinement. For inmates who are voluntarily excluded from association, the State party should ensure that adequate rules and mechanisms are in place, including enhanced psychological assistance and regular monitoring, to ensure that any psychological harms occasioned as a result of reduced social interaction are mitigated.

Use of pepper spray

22. The Committee is concerned over allegations of the use of pepper spray by police and prison guards on individuals who have already been brought under control. The Committee is also concerned that pepper spray forms part of the standard equipment of prison guards in closed facilities, and that regulations surrounding its use still allow for its diffusion in closed spaces (arts. 2, 11 and 16).

23. The Committee reiterates its previous recommendation⁶ that the State party should take measures to further restrict the use of pepper spray, and prohibit its use in confined spaces, on vulnerable persons, and on individuals who have been brought under control.

Migration detention

24. The Committee expresses its concern over the generally carceral format of administrative detention for the purposes of deportation, noting that deportation centres are administered by the Prison and Probation Service, are staffed by prison guards, and that many of the conditions of life, for example access to the use of mobile phones and disciplinary sanctions, such as the use of solitary confinement, are regulated, as in remand detention, by the Administration of Justice Act. The Committee is also concerned over criminal sanctions applied to individuals who do not spend the night at return centres in contravention of applicable rules. The Committee expresses further concern over the fact that convicted criminals awaiting deportation after serving their sentences are held together with individuals under administrative detention, such as persons with rejected asylum applications and those awaiting asylum appeals. The Committee expresses particular concern over the situation of children, who may also be subject to administrative detention, and women, who are administratively detained in the same centre as convicted criminals, including those of the opposite sex (arts. 2, 3, 11 and 16).

25. The State party should ensure that detention for the purposes of deportation is applied only as a last resort, when determined to be strictly necessary and proportionate in the light of the individual's circumstances and for as short a period as possible, and intensify its efforts to expand its application of non-custodial measures. Children and families with children should not be detained solely for their immigration status. The State party should also ensure that the regime and conditions of immigration detention are designed in a manner befitting the status of persons who have not been criminally convicted, and that persons with criminal histories are detained separately to those without.

⁶ CAT/C/DNK/CO/6-7, para 31.

Children in social care

26. The Committee expresses its concern that in some cases children in social care are placed in secure residential facilities with children serving custodial sentences, despite not having committed an offence (arts. 2, 11 and 16).

27. The State party should ensure that all children in the care of the State party are accommodated in facilities which are adequately suited to their needs and backgrounds, taking into account their diverse and varying vulnerabilities. Children should only be placed in closed facilities in exceptional circumstances as a last resort, when determined to be strictly necessary and proportionate in the light of the child's circumstances, and for as short a period as possible. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules).

Trafficking in human beings

28. The Committee is concerned over the low number of investigations and convictions for offences of trafficking in human beings in the State party. Further, it is concerned over the high burden of proof associated with the prosecution of trafficking in human beings, and the resultant effects that this has on the migration status of victims of trafficking, specifically on their ability to claim asylum and their risk of refoulement. The Committee is also concerned that the recovery and reflection period for victims of trafficking is limited to 30 days, with extensions only available in cases where victims cooperate with authorities and in extenuating circumstances, and that the swift return of victims of trafficking to their countries of origin may have adverse effects on their ability to access compensation and rehabilitation (arts. 2, 3, 11-14 and 16).

29. The State party should continue to strengthen its efforts to combat trafficking in human beings, ensuring that such cases are thoroughly investigated, including in the absence of a complaint, and that suspected perpetrators are prosecuted and, if convicted, punished with appropriate sanctions. The State party should also ensure that victims obtain full redress, including adequate compensation and rehabilitation, and have access to free legal and medical assistance. The State party should ensure access to adequate protection and support, including temporary residence permits of an adequate duration, for all victims of trafficking, irrespective of their willingness to cooperate with authorities, including in the context of legal proceedings against the perpetrators.

Gender-based violence, including domestic violence

30. While taking note of the information provided by the State party regarding measures implemented to combat gender-based violence, the Committee is concerned that victims of intimate partner violence may be reluctant to leave situations of abuse where their residency permit has been obtained on the basis of family reunification, for fear of losing their right to remain in the State party. The Committee notes that while legislation is in place to respond to such situations, difficulties in proving intimate partner violence may push victims to remain in such situations, as otherwise they may risk deportation (arts. 2, 3, 11-14 and 16).

31. The State party should ensure that all acts of gender-based, including domestic violence, especially those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately. The State party should also ensure that victims or their families receive redress, including adequate compensation and rehabilitation, have access to legal assistance, safe shelters and the necessary medical care and psychosocial support, and are not driven to remain in abusive situations as a result of their migration status.

Intersex persons

32. The Committee is concerned over reports that unnecessary and irreversible surgery and other medical treatments are performed on intersex children without their informed

consent, and that intersex adults in need of gender-affirming care who disagree with their assigned gender at birth experience discrimination in treatment when compared with intersex persons who access medical care based on their originally assigned gender (arts. 2, 11-14 and 16).

33. The State party should ensure that its legislation, which prohibits irreversible surgical operations that are performed on intersex children for cosmetic reasons, is adequately enforced, and should conduct studies into this issue in order to better understand and approach it. The parents or guardians of intersex children should receive impartial counselling services, psychological and social support, and information, including information on the possibility of deferring any decision on treatment until it can be carried out with the full, free and informed consent of the person concerned. All persons who experience severe pain and suffering as a result of unnecessary medical procedures conducted without their consent should have access to effective remedies. The State party should also ensure that all intersex persons receive the same level of specialized care, regardless of their conformity with the gender they were assigned at birth or place of residence.

Forced and involuntary contraception implants in Greenland

34. The Committee is concerned over reports forced and involuntary contraception implanted in Greenlandic women and girls dating back to the 1960s. While noting that the State party has established an inquiry commission to investigate these allegations, the Committee is concerned that the temporal mandate of the commission does not extend beyond 1991 (arts. 2, 12-14 and 16).

35. The State party should ensure that all allegations and complaints of forced or coerced contraception implants, including those which occurred after 1991, are impartially investigated, that the persons responsible are held accountable and that adequate redress is provided to the victims.

Psychiatric institutions

36. While the Committee notes efforts in recent years by the State party to reduce the use of restraint belts in psychiatric settings, the Committee is concerned over information provided by the delegation which indicated that the resultant effect in some cases has been a substitution with the use of chemical restraint instead, rather than an increase in the use of less intrusive measures. The Committee is concerned that the continued persistence of methods of coercion in psychiatric settings is due, in part, to lack of available human resources. While the Committee notes that the Psychiatric Patient Complaints Board appears to be an effective mechanism, it is concerned over the number of instances in which the Board has found that the initiation or duration of constraint was unlawful, indicating that enhanced training, guidelines and implementation of existing regulations is required. The Committee is also concerned that children under the age of 15 are not protected by the same legal safeguards as those available to adults and juveniles aged 15 or older, such as the right to a patient advisor and access to complaint mechanisms in cases where their parents have consented to the use of coercive measures (arts. 2, 11-14 and 16).

37. The State party should continue its efforts to reduce recourse to coercion in psychiatric settings, and ensure that physical or chemical means of restraint are used only as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain that risk. Comprehensive guidelines on the initiation and duration of coercion should be implemented and evenly applied across all psychiatric settings, and the State party should ensure that children under the age of 15 are able to avail of the same legal safeguards as adults and juveniles aged 15 or older.

Training

38. The Committee takes note of the training provided in postgraduate forensic medicine programmes regarding the application of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

(the Istanbul Protocol), however it regrets that training on this manual, as revised, is not provided to prosecutors or members of the judiciary (art. 10).

39. The State party should ensure that all relevant staff, including judges, prosecutors, and medical and psychological personnel, are specifically trained in the identification of cases of torture and ill-treatment, in accordance with the Istanbul Protocol, as revised.

Investigation and prosecution of acts of torture and cruel, inhuman or degrading treatment

40. The Committee is concerned by the low number of criminal charges which result from allegations of police misconduct lodged with the Independent Police Complaints Authority, and similarly regrets that the Authority lacks an explicit legal basis to investigate cases of torture and ill-treatment. The Committee further notes the recent findings of the European Court of Human Rights⁷, which indicate that investigations into acts of torture and ill-treatment in detention may in some cases be overly narrow in scope, focusing on the criminal culpability of perpetrators rather than on the actual occurrence of an act of torture or ill-treatment (arts. 2, 11-14 and 16).

41. The State party should consider refining the mandate of the Independent Police Complaints Authority to ensure that it is empowered to adequately investigate all cases where torture and ill-treatment may have occurred, including cases where indications of criminal culpability have not been possible to establish. In a similar vein, the State party should ensure that all investigations into allegations of torture and ill-treatment include inquiries first as to whether or not an act of torture or ill-treatment has occurred, and not solely focus on whether the evidence available is of sufficient quality to lodge criminal charges against the accused. In doing so, the State party should be mindful of the fact that injuries sustained by persons deprived of their liberty place an additional onus on the State party to demonstrate that it has acted sufficiently and has undertaken all due diligence to ensure the physical and psychological integrity of the detainee.

Identification of victims of torture in the context of migration

42. The Committee notes recent initiatives by the State party to screen newly arrived asylum seekers in order to identify victims of torture, however it is concerned that this information does not follow victims throughout the asylum process, notably resulting in their detention in some cases, for example in a deportation centre. The Committee is also concerned that in cases where torture is invoked as grounds for an asylum claim, the decision to recommend that the claimant undergo a forensic medical examination remains at the discretion of the asylum authorities and is not provided as a matter of course. In this regard, the Committee regrets the policy of the Refugee Appeals Board, which is in opposition to the recommendations and decisions⁸ of the Committee, most notably its General Comment no. 4 (2017) (arts. 2, 3, 11-14 and 16).

43. The State party should build on recent efforts in the identification of victims of torture by ensuring sufficient coordination between all branches of the asylum service in order, inter alia, to ensure that victims of torture and other categories of persons with increased vulnerabilities are not detained, and that they have access to adequate medical, psychological and social assistance, including as full a means of rehabilitation as possible. The State party should also ensure that persons who allege that they have been subjected to torture are referred by the asylum authorities for an independent medical examination free of charge, in accordance with the Istanbul Protocol, as revised, regardless of the asylum authorities' assessment of the credibility of the allegations.

⁷ El-Asmar v. Denmark, Application No. 27753/19, Judgment, 3 October 2023

⁸ See, for instance, K.H. v. Denmark (CAT/C/49/D/464/2011).

Statute of limitations in civil compensation cases

44. The Committee notes recent positive steps taken by the State party in order to extend the statute of limitations in civil compensation cases involving children, but is concerned that the statute of limitations in civil compensation cases involving adults still applies in cases of torture and ill-treatment. In this regard, the Committee recalls its general comment No. 3 (2012)⁹, which states that statutes of limitations in cases of torture and ill-treatment should not be applicable as these deprive victims of the redress, compensation, and rehabilitation due to them (art. 14).

45. The Committee reiterates its previous recommendation¹⁰ that the State party take the necessary legal measures to ensure that civil proceedings related to torture and ill-treatment are not subject to statutes of limitations.

United Nations Voluntary Fund for Victims of Torture

46. The Committee commends the State party's commitment to the United Nations Voluntary Fund for Victims of Torture, including as contributor, founding member and co-chair of the Group of Friends of the Fund, although the Committee observes a reduction in the contributions provided by the State party to the Fund in 2023 (art. 14).

47. The Committee encourages the State party to continue its support for the United Nations Voluntary Fund for Victims of Torture and to consider increasing its contributions.

Data collection

48. The Committee notes that while most requested data regarding allegations, investigations, prosecutions and convictions of torture and ill-treatment were provided by the State party, such data was in many cases compiled manually due to lack of electronic means of compilation. The Committee highlights that without such electronic tools, analysis of data relating to torture and ill-treatment, and thus systematic review of efforts to prevent torture and ill-treatment in the State party, are greatly hampered (arts. 2, 11-13 and 16).

49. The State party should develop the necessary tools to effectively compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including disaggregated data on complaints, investigations, prosecutions, and convictions of cases of torture and ill-treatment, in particular in detention facilities, as well as on means of redress, including compensation and rehabilitation, provided to the victims. The State party should also make additional efforts to produce and publish data related to the implementation of the Convention, and encourage its study and positive use.

Follow-up procedure

50. The Committee requests the State party to provide, by 24 November 2024, information on follow-up to the Committee's recommendations on conditions of detention; migration detention; and psychiatric institutions (see paras. 19, 25 and 37 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the present concluding observations.

Other issues

51. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations, and to inform the Committee about its disseminating activities.

⁹ CAT/C/GC/3: General comment No. 3 (2012) on the implementation of article 14 by States parties, para. 40.

¹⁰ CAT/C/DNK/CO/6-7, para 17.

52. The Committee requests the State party to submit its next periodic report, which will be its ninth, by 24 November 2027. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its ninth periodic report under article 19 of the Convention.
