

Denmark¹

1. Introduction

In the first instance (“byret”), 24 jurisdictional districts are to be distinguished.² Then, there is an Eastern High Court and a Western High Court; these courts mainly function as courts of appeal, except for jury cases and a number of important civil cases. Finally, there is a Supreme Court, covering the whole of the country.³ Since 1 October 2007, a new law on the court organisation is in force. The law was published in the consolidated Act of the Administration of Justice Law (No. 1261 of 23 October 2007). The Act has been changed twice since it entered into force.⁴ Criminal law can be defined as “that branch of public law, which relates to special offences (criminal offences) instituted for the infliction of specific sanctions (penal sanctions)”.⁵

Procedural criminal law contains rules regarding “the organization of the courts, the prosecution, the police, and the bar, furthermore the investigation – mainly the regulation of means of enforcement – prosecution, trial, and appeal in cases concerning criminal offences”.⁶ Most of these rules are laid down in the Administration of Justice Act (hereafter: AJA) of 2007. It is by far the largest Danish act. The act came into force, for the first time, in 1919 and covers both criminal and civil law cases. The Danish law of 1683 combined several scattered provisions for civil and criminal procedure law. Around 1800, the inquisitorial form for procedure was introduced and rejected again by the reform of 1919, which introduced the accusatory principle in Danish criminal proceedings. The constitution of 1849 promised to bring about public and oral criminal proceedings and jury trials. Later, these promises became reality with the entry into force of the AJA.⁷

The AJA consists of five books: 1. The courts etc.; 2. Common provisions for civil and criminal cases; 3. The civil administration of justice; 4. The criminal administration of justice; and 5. Concluding and transnational provisions. There are 95 chapters; the sections are numbered from 1 to 1043 (but the sections 1024 – 1043 do not contain any provisions). The numbering of the chapters and sections is continuous throughout the AJA. With regard to pre-trial detention, we are especially interested in chapter 70, which contains rules for “detention on remand”.

According to the Danish Constitution,⁸ personal liberty shall be inviolable. Deprivation of a person’s liberty is only possible on the basis of a law. Paragraph 71, subsections 1-5 of the Constitution regulates the criminal procedure.⁹ A person taken into custody must be brought

¹ The author wishes to thank Mrs. Anette Storgaard for providing the necessary legal and statistical material, for commenting on and correcting earlier drafts of this report, and for taking part in the second expert meeting, 27-30 November in Greifswald, Germany. Mrs. Anette Storgaard is a lecturer, lic.jur. at Aarhus Universitet, Afdelingen for Proces- og Kriminalvidenskab. Also, the author wishes to thank Mrs. Katrine Busch of the Ministry of Justice of Denmark for providing useful commentaries on an earlier draft of the report at the meeting on 9 February 2009 in Brussels on pre-trial detention procedures.

² Not the Faroe Islands and Greenland.

³ Lars Bo Langsted, Peter Garde & Vagn Greve, *Criminal Law. Denmark*, Copenhagen: DJØF 2004, p. 17.

⁴ Information from the expert; the latest edition of the AJA is available in Danish at <https://www.retsinformation.dk/Forms/R0710.aspx?id=116587>

⁵ *Ibid.*, p. 18.

⁶ *Ibid.*, p. 18-19.

⁷ Malene Frese Jensen, Vagn Greve, Gitte Høyer & Martin Spencer, *The Principal Danish Criminal Acts. The Danish Criminal Code, The Danish Corrections Act, The Administration of Justice Act (experts)*, Copenhagen: DJØF 2006, p. 117.

⁸ The Constitutional Act of Denmark of 5 June 1953, available at <http://www.folketinget.dk/pdf/constitution.pdf> (accessed 15 January 2009).

⁹ By Annette Storgaard in: A.M. van Kalmthout, F.B.A.M. Hofstee-van der Meulen, F. Dünkel, *Foreigners in European Prisons. Volume 1*, Nijmegen: WLP 2007, p. 209.

before a judge within 24 hours. If the judge cannot immediately release the person, he shall decide that the person must be taken to prison. The judge shall decide without delay, at the latest within three days, and state the grounds for custody. The judge may also decide to release the person on bail. He will then have to determine the nature and amount of such bail. The person concerned can appeal the decision of the judge once to a higher court. According to subsection 5 of the Constitution, “no person shall be remanded in custody for an offence which can involve only punishment by fine or mitigated imprisonment (“hæfte”)”.

If a person is arrested because he or she is suspected of having committed a criminal offence, that person shall either be released or, within 24 hours from the moment of the arrest, be brought before a judge. The judge may decide to: 1) release the person; 2) remand the person for a period of three times 24 hours; or 3) remand the person into custody. This first appearance before the judge is called the preliminary examination.¹⁰ If the person is remanded (2), he or she must appear in court again within three times 24 hours after the conclusion of the preliminary investigation. The judge will then decide whether he/she is to be remanded into custody (3) or released (1). During the preliminary stage, a lawyer will be appointed to the detained person.

If a person has been remanded into custody, the judge will set a time limit (not exceeding four weeks) within which the person’s deprivation of liberty must be reviewed by the court. The decision of the judge on the remand in custody is eligible for appeal by the party concerned. The person remanded in custody is always entitled to make a statement before his case is heard. He has the right to receive the decision upon his complaint/appeal in writing. The person should always have a reason for putting forward an appeal.

After the delivery of the final judgement, the person remanded in custody will be informed of his status. He is either released or remains remanded in custody until the serving of the sentence begins. Within fourteen days from the delivery of the final judgement, the person concerned can lodge an appeal against the final decision.

It is noteworthy to mention that Denmark has no special judges dedicated to conflicts between parties during the investigation period. The judge plays a supervisory role in the investigation stage. Some investigative steps need to be decided in court, for instance tapping, mental observation and pre-trial imprisonment. These decisions are made by a judge of the competent court. In this respect, the case of Hauschildt vs. Denmark before the European Court of Human Rights (hereafter: the Court) should be mentioned. “In the Court’s view (...) the mere fact that a trial judge or an appeal judge, in a system like the Danish, has also made pre-trial decisions in the case, including those concerning detention on remand, cannot be held as in itself justifying fears as to his impartiality. Nevertheless, special circumstances may in a given case be such as to warrant a different conclusion.”¹¹ This was the case in Hauschildt vs. Denmark.

The prison population has been relatively stable for some years. At the end of 2005/beginning of 2006, the average was the highest of the 21st century, due to “the extraordinarily high occupancy and the temporary increase of the capacity”.¹²

2. Empirical background information

The first set of data is based on the resources of SPACE I, the annual penal statistics on the prison population, provided by the Council of Europe. The second set of data has its foundations in the research of the International Centre for Prison Studies (hereafter: ICPS), which publishes the yearly World Pre-trial / Remand Imprisonment List¹³.

¹⁰ Kriminal Forsorgen, *Guidelines for detainees and remand prisoners*, available at <http://www.kriminalforsorgen.dk/>

¹¹ ECHR Hauschildt vs. Denmark, Application No. 10486/83, 24 May 1989, paragraph 50

¹² By William Rentzmann in: Peter J.P. Tak & Manon Jendly (eds.), *Prison policy and prisoners’ rights*, Nijmegen: Wolf Legal Publishers 2008, p. 289.

¹³ R. Walmsley, *World Pre-trial / Remand Imprisonment List, Pre-trial detainees and other remand prisoners in all five continents 2007*, available at <http://www.kcl.ac.uk/depsta/law/research/icps/downloads/WPTRIL.pdf>

Denmark and its prisoners in general

Population 2006, annual estimates (thousands)	5430.0
Total number of prisoners (including pre-trial detainees)	3,759
Prison population rate per 100,000 inhabitants	69.2
Total capacity of penal institutions/prisons	4,104
Prison density per 100 places	91.6

Special groups of prisoners

Prisoners under 18 years old	13 (0.3 %)
Prisoners from 18 to less than 21 years old	311 (8.3 %)
Number of female prisoners (including pre-trial detainees)	170 (4.5 %)
Number of foreign prisoners (including pre-trial detainees)	710 (18.9 %)
Of which: number of foreign pre-trial detainees	349 (49.2 %)
Percentage of European prisoners (as a part of the foreign prisoners)	Not available

Legal status of prison population I

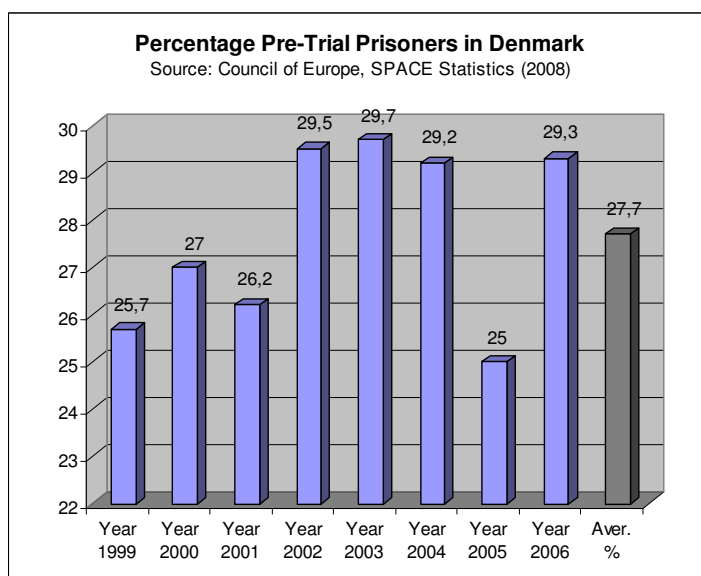
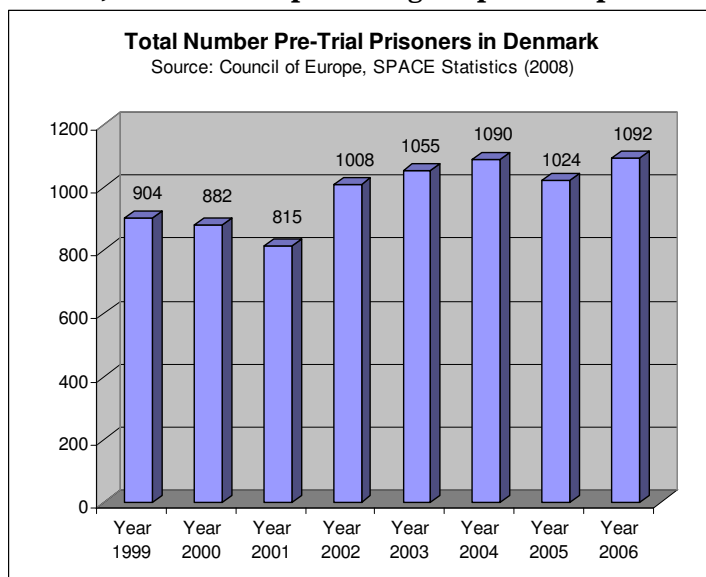
Untried prisoners (no court decision yet reached)	1,092 (It is not possible to keep these groups separate in the statistics.)
Convicted prisoners, but not yet sentenced	
Sentenced prisoners who have appealed or who are within the statutory time limit for doing so	
Sentenced prisoners (final sentence)	2,634
Other cases (cases of enforcement against person; fine defaulters) ¹⁴	33
Total	3,759

Legal status of prison population II

Percentage of prisoners not serving a final sentence	29.9 %
Rate of prisoners not serving a final sentence per 100,000 inhabitants	20.7
Percentage of untried prisoners (no court decision yet reached)	29.1 %
Rate of untried prisoners (no court decision yet reached) per 100,000 inhabitants	20.1

¹⁴ The category "other cases" includes: drug addicts, illegal immigrants awaiting deportation, persons awaiting placement in psychiatric institutions, and persons who have broken probation rules.

Table 1, Number and percentage of pre-trial prisoners in Denmark



Data according to the International Centre for prison Studies (ICPS); World Remand Prison List

Prison population according to legal status:	
Total number in pre-trial/remand imprisonment	978
Date	17 October 2007
Percentage of total prison population	27%
Estimated national population (on the date shown)	5.46 million
Pre-trial/remand population rate (per 100,000 of national population)	18

The first figure shows us the number of prisoners in general. Denmark has a population of around 5.5 million, whereof 3,759 persons are detained. According to the ICPS, in 2007, the prison population including pre-trial detainees/remand prisoners was 3,626, resulting in a prison population rate (per 100,000 of the national population) of 66 (based on an estimated national population of 5.46 million in July 2007). This differs from the SPACE I numbers. Here, the prison

population rate per 100,000 inhabitants is 69.2 (in 2006). The total capacity of penal institutions and prisons is 4,104 persons. This means that the prison density per 100 places is 91.6.

According to national sources, at the end of 2005, the total capacity of the prison system was 4,316. The prison capacity was spread over closed institutions (939 places in five closed prisons and two closed departments in open prisons), open institutions (1,659 places in twelve open prisons) and pre-trial prisons (1,718 places in about forty pre-trial prisons).¹⁵ According to later statistical data from the ICPS World Prison Brief, the official capacity of the prison system was 3,809 on 4 September 2008 (resulting in an occupancy level – based on the official capacity – of 90.5%).

The second figure tells us that there are 13 prisoners under 18 years old, which is 0.3 % of the total prison population. There are 311 prisoners between 18 and 21 years old: 8.3% of the total prison population. The 170 female prisoners represent 4.5% of the total prison population. Finally, the number of foreign prisoners: This amounts to 710, which is 18.9% of the total prison population. 349 (49.2%) of the foreign prisoners are in pre-trial detention. Unfortunately, no data is available on the percentage of EU nationals and non-EU nationals among them.¹⁶

The first figure concerning the legal status of the prison population shows that the groups of untried prisoners, convicted prisoners but not yet sentenced, and sentenced prisoners who have appealed or who are within the statutory time limit for doing so, cannot be separated in the statistics. In total, 1,092 prisoners fall within these groups. The number of sentenced prisoners is 2,634. The category “Other cases” contains 33 prisoners. This makes a total prison population of 3,759 persons. The second figure concerning the legal status of prisoners shows us the percentage of prisoners not serving a final sentence (29.9), the rate of prisoners not serving a final sentence per 100,000 inhabitants (20.7), the percentage of untried prisoners – no court decision has been reached yet – (29.1) and, finally, the rate of untried prisoners per 100,000 inhabitants (20.1).

Table 1 and its accompanying graphs show us the numbers and percentages of pre-trial prisoners in Denmark in subsequent years.

Further, the data of the ICPS tells us that, on 17 October 2007, 978 persons were in pre-trial or remand detention. This is 27% of the total prison population. The pre-trial/remand population rate per 100,000 of the national population is 18.¹⁸

At the beginning of 2008, there was an increase in the number of remand prisoners. Thanks to the reform of the police and the court system in 2007, and the resulting, more effective working methods, these cases could be dealt with.¹⁷

Finally, various sources providing statistical information have been placed in one table. It shows that there is not a lot of data available with regard to pre-trial detention and, above all, that it is very difficult to compare the figures.

¹⁵ By Anette Storgaard in: A.M. van Kalmthout, F.B.A.M. Hofstee-van der Meulen, F. Dünkel, *Foreigners in European Prisons*. Volume 1, Nijmegen: WLP 2007, p. 211.

¹⁶ Commission Staff Working Paper, Annex to the Green Paper on mutual recognition of non-custodial pre-trial supervision measures, COM(2004)562final, p. 75-87. For some countries, this document provides the numbers of foreign pre-trial detainees, thereby distinguishing between EU nationals and non-EU nationals.

¹⁷ By William Rentzmann in: Peter J.P. Tak & Manon Jendly (eds.), *Prison policy and prisoners' rights*, Nijmegen: Wolf Legal Publishers 2008, p. 289.

Source	Date	Total prison population (including pre-trial detainees/remand prisoners)	Number of pre-trial detainees	Pre-trial detainees as a percentage of the total prison population	Prison population rate per 100,000 of national population	Pre-trial detention rate per 100,000
International Centre for Prison Studies ¹⁸	4.9.2008	3,448	1,186	34.4	63	25
SPACE I (Council of Europe) ¹⁹	1.9.2006	3,759	1,092	29	69.2	20
European Sourcebook ²⁰	2003	-	-	29	67	-
Eurostat ²¹	2006	3,957	-	-	-	-
	2004 ²²	-	1,089	-	-	-
National Statistics ²³	2006	4,140	1,098	27	54 ²⁴	-

Source	Pre-Trial detention (numbers) between		Pre-trial detention (percentage) between		Origin of foreigners in pre-trial detention (percentage)	
	Nationals	Foreigners	Nationals	Foreigners	EU nationals	Third-country nationals
International Centre for Prison Studies	-	-	-	-	-	-
SPACE I (Council of Europe)	743	349	68	32	-	-
European Sourcebook	-	-	-	-	-	-
Eurostat	-	-	-	-	-	-
	-	-	-	-	-	-
National Statistics	-	-	-	-	-	-

¹⁸ R. Walmsley, International Centre for Prison Studies, World Pre-trial/Remand imprisonment list January 2008.

¹⁹ M.F. Aebi, N. Delgrande, University of Lausanne, Switzerland, Council of Europe Annual Penal Statistics – SPACE I – Survey 2006, pc-cp\space\documents\pc-cp (2007) 09 rev3.

²⁰ European Sourcebook of Crime and Criminal Justice Statistics – 2006 Third edition STOCK data.

²¹ Eurostat, population and social conditions, criminal and criminal justice, prison population, available at http://cpp.eurostat.ec.europa.eu/extraction/retrieve/en/theme3/crim/crim_pris?OutputDir=EJOutputDir_621&user=unknown&clientsessionid=1CBF25260BEF17D1F309141D087444F4.extraction-worker-2&OutputFile=crim_pris.htm&OutputMode=U&NumberOfCells=602&Language=en&OutputMime=text%2Fhtml&

²² Data from Criminal Statistics Yearly Reports 2001 in: A.M. van Kalmthout, F.B.A.M. Hofstee-van der Meulen, F. Dünkel, *Foreigners in European Prisons. Volume 1*, Nijmegen: WLP 2007, p. 214.

²³ Ragnar Kristoffersen (ed.), Correctional Statistics of Denmark, Finland, Iceland, Norway and Sweden 2002 – 2006, report 6/2008.

²⁴ Sentenced per 100,000 of the total population; the total number of registered inmates per 100,000 of the total population is 76.

Source	Females in pre-trial detention (numbers)	Females as a percentage of the total number of pre-trial detainees	Juveniles in pre-trial detention (numbers)	Juveniles as a percentage of the total number of pre-trial detainees
International Centre for Prison Studies	-	-	-	-
SPACE I (Council of Europe)	-	-	-	-
European Sourcebook	-	-	-	-
Eurostat	-	-	-	-
	61	5.6%	-	-
National Statistics	-	-	-	-

3. Legal basis: scope and notion of pre-trial detention

The AJA contains the rules with regard to the criminal procedure, which comprises civil as well as criminal law. Since the entering into force of the AJA, in 1919, it holds, *inter alia*, fundamental principles such as “the basic principles of instruction, the right to be heard, acceleration, free evaluation of evidence, presumption of innocence (...)”.²⁵ The most important sources of criminal law are (still) national, but due to the fact that Denmark is a member of many international and supranational organisations (such as the EU, the UN, the Council of Europe, and the Nordic Council), Denmark has the obligation to prescribe certain criminal offences in its laws and regulations. Especially when it concerns the EU, Denmark, as well as all the other EU Member States, is obliged to prescribe the use of penalties in national criminal law in various areas.

The stages of the penal process can be divided into the investigation, the prosecution, and the trial stage. The leading principle with regard to the first stage, the investigation, is that “compulsory means (...) must be regulated by law, compulsory means being defined as acts which would be illegal, even punishable, unless specially authorized, e.g., deprivation of liberty is penalized by the Criminal Code section 261, thus arrest and detention is only justified to the extent that it is authorized (...)”.²⁶

The purpose of the investigative stage is to “clarify whether the conditions for the imposition of penalties or other sanctions exist, to procure the necessary information, and to prepare the case for trial”.²⁷ Since 1978, the investigative stage is the domain of the police, supervised by the judge. If there is a reasonable possibility that an indictable offence has been committed, the police can initiate the investigation on the basis of a complaint or *ex officio*. In cases where there is a suspect, the police are entitled to conduct an investigation, even if there are not yet sufficient grounds to accuse the suspect. The role of the court in the investigative stage is restricted to: “1) the application of certain, but not all means of compulsion (...) above all detention, 2) the ruling on disputes between the prosecution and the defence, (...), 3) the taking down of evidence for use at the trial, when such evidence is expected not to be directly available at the time of the trial, especially statements from witnesses expected to be absent at the time of the trial (...)”.²⁸

The court’s most important role is deciding whether or not to impose a means of compulsion. There are various means of compulsion: arrest (Sec. 755-761²⁹), detention on remand (Sec. 762-

²⁵ Lars Bo, Peter Garde & Vagn Greve, *Criminal Law. Denmark*, Copenhagen: DJØF 2004, p. 28.

²⁶ *Ibid.*, p. 123.

²⁷ *Ibid.*, p. 140.

²⁸ *Ibid.*, p. 123.

²⁹ Malene Frese Jensen, Vagn Greve, Gitte Høyer & Martin Spencer, *The Principal Danish Criminal Acts. The Danish Criminal Code, The Danish Corrections Act, The Administration of Justice Act (experts)*, Copenhagen: DJØF 2006, p. 123 et seq.

779³⁰), invasions of communication, observation and data copying (Sec. 780-791b³¹), invasions of the body (Sec. 792-792f³²), search (Sec. 793-800³³), seizure and disclosure (Sec. 801-807b³⁴), examinations of personal history (Sec. 808-811³⁵), and other investigative measures (Sec. 812-821³⁶).

As a result of the possibility to act *ex officio*, the police “are entitled to initiate an investigation upon anonymous information and to continue proceedings even if a complaint has been withdrawn”.³⁷ The police and the prosecutor may also take the withdrawal of the complaint into consideration when weighing if there are sufficient grounds to prosecute the suspect. The decision to prosecute is made by the prosecution service.

According to Sec. 755 AJA, “the police can arrest a person who, on reasonable grounds, is suspected of a criminal offence, which is prosecuted by the State, if arrest must be considered necessary to prevent additional criminal offences, to secure his temporary presence or to prevent his contact with others”.³⁸ Almost every case is suitable for the application of arrest, but “arrest must not be made if deprivation of liberty, considering the nature of the case or other circumstances, would be a disproportional measure”.³⁹ Arrest must be carried out in a humane way and the police shall inform the arrestee of the charges as soon as possible.⁴⁰ According to the Constitution (Sec. 71) and the AJA (Chapter 69, Sec. 760.2), a person arrested must to be brought before a judge within 24 hours (72 hours under the Aliens Act). An arrested person must always be released as soon as the grounds for his arrest are no longer present.⁴¹ According to Sec. 760.3 AJA, the arrestee shall be released before the closing of the court hearing if the arrest has been made for a criminal offence for which detention on remand cannot be imposed. However, “if the arrest has been made for a criminal offence for which detention on remand can take place and the arrestee cannot be released immediately, the court can, when based on the insufficiency of the available information or due to other reasons it is unable to decide immediately on the question of detention on remand, decide that he shall remain under arrest temporarily”.⁴² Any person to whom this applies shall – if he/she is not released earlier – again be brought before a judge, who within three times 24 hours after the closing of the first court meeting, decides whether the arrestee shall be released or detained on remand, or be subject to measures pursuant to Sec. 760(5) AJA.⁴³

According to Sec. 762 AJA, “an accused can be detained on remand when there is a substantiated suspicion that he has committed an offence, which is prosecuted by the state, if, under the law, the offence can result in imprisonment for one year and six months or more, and 1) if, based on the information about the circumstances of the accused, there are specific reasons to presume that he will abscond from the prosecution or the enforcement, or 2) if, based on the information about the circumstances of the accused, there are specific reasons to fear that he at large will commit another offence of the above described kind, or 3) if, based on circumstances of the case, there are specific reasons to presume that the accused will impede the prosecution of the case, particularly by removing evidence or warning or influencing others”.⁴⁴

In order to obtain a court order for detention, the prosecution must show that there is “1. a justified reason to believe that the accused has committed an offence (...), 2. that the offence may in law result in imprisonment for 1 year and 6 months or more (...), 3. that the general principle of

³⁰ Ibid., p. 124 et seq.

³¹ Ibid., p. 131 et seq.

³² Ibid., p. 137 et seq.

³³ Ibid., p. 139 et seq.

³⁴ Ibid., p. 141 et seq.

³⁵ Ibid., p. 146.

³⁶ Ibid., p. 146 et seq.

³⁷ Lars Bo, Peter Garde & Vagn Greve, *Criminal Law. Denmark*, Copenhagen: DJØF 2004, p. 140.

³⁸ Chapter 69, Sec. 755.1 AJA.

³⁹ Chapter 69, Sec. 755.4 AJA.

⁴⁰ Chapter 69, Sec. 758.1 & 2 AJA.

⁴¹ Chapter 69, Sec. 760.1 AJA.

⁴² Chapter 69, Sec. 760.4 AJA.

⁴³ Chapter 69, Sec. 760.5 AJA.

⁴⁴ Chapter 70, Sec. 762.1 AJA.

proportionality, AJA Section 762 subs. 3,⁴⁵ may not be infringed upon (...), and 4. specific reasons to believe that the suspect will, if released, either a) abscond (persons of no fixed abode, aliens), b) commit new offences (earlier convictions or arrests), or c) impede the investigation, in particular by removing evidence or by warning or influencing others”.⁴⁶

Detention on remand can only be decided on by the court, upon request of the prosecution service.⁴⁷ A request for continued detention on remand shall be submitted to the court in writing. This request shall entail the legal provision on which the prosecution services relies for requesting the continued detention, the factual circumstances that support the request and the most important investigative steps which will probably be taken.

During the court hearing on the detention request, the accused shall have access to a defence counsel. In cases where the accused person is present during the court hearing, he shall have the opportunity to discuss his case with the defence counsel before the questioning takes place (Sec. 764.3. of the AJA).

According to Sec. 764.2 AJA, the accused “shall have the opportunity to make a statement before the decision is made, unless the court finds that, due to special reasons, bringing the accused before the court must be deemed useless or harmful for him”. The ordering of detention *in absentia* is possible if the accused is brought before the court within 24 hours after he has been brought into the country or after any other obstacles for his non-attendance have ended.

To decide upon the question of detention on remand, court hearings are held. The court’s decision is made in the form of a court order. Sec. 764.3 states that “if the accused is detained on remand, the court shall state the specific circumstances of the case upon which it is based, that the conditions of detention are fulfilled”.⁴⁸ At the same time, the accused – who is present during the court hearing – shall be informed of the rules of detention on remand. Moreover, he will be informed of the reasons of his detention and of his right to appeal to the High Court.

The Danish Administration of Justice Act and the Remand Custody Order number 738 of 25 June 2007 provide regulation on remand prisoners’ right to receive visits and to send and receive letters.

Pursuant to Sec. 770 of the Danish Administration of Justice Act, a remand prisoner is only subject to those restrictions, which are necessary to secure the purpose of detention on remand or the maintenance of order and security in the detention centre. Wherever possible, detainees shall be detained in detention centres (local prisons) close to the place where the criminal case is due to be tried. For reasons of health, a person may be placed outside a detention centre. According to Sec. 770A of the AJA, the court may decide, upon request of the police, that a detainee will be solitary confined (“solitary confinement”; Sec. 770A-770E of the AJA), i.e. excluded from social interaction with other inmates.

Pursuant to Sec. 771 of the AJA, a remand prisoner can receive visits to the extent the maintenance of order and security in the detention centre permits it. The police can, due to the purpose of the detention on remand, oppose that the remand prisoner receives visits, or insist that the visits take place under supervision. The remand prisoner can demand that police denials of visits or requirements of supervision are submitted to the court for review. A remand prisoner always has the right to unsupervised visits by his defence counsel. Sec. 771.1 of the AJA also makes it possible that the management of the detention centre may, with the consent of the police, grant a detainee escorted leave of absence for a short period of time.

Pursuant to Sec. 772 of the AJA, a remand prisoner has the right to receive and send letters. The police can inspect letters before they are received or sent. The police shall as soon as possible

⁴⁵ Chapter 70, Sec. 762.3 AJA: “Detention on remand cannot be used if the offence can be expected to result in a sentence of a fine or imprisonment for any term not exceeding 30 days, or if the deprivation of liberty will be disproportional to the hereby caused intrusion in the affairs of the accused, the significance of the case, and the sanction that can be expected if the accused is found guilty.”

⁴⁶ Lars Bo, Peter Garde & Vagn Greve, *Criminal Law. Denmark*, Copenhagen: DJØF 2004, p. 163.

⁴⁷ Chapter 70, Sec. 764.1 AJA.

⁴⁸ Lars Bo et al. express this slightly differently and mention that “the ruling (...) must set out the reasons for the decision, not only the naked reference to the relevant offence and the section and subsection in the AJA (...) but also the factual circumstance behind the decision”. In addition, they note that “it is safe to say that Danish judges too often fall short in this respect”. See Lars Bo, Peter Garde & Vagn Greve, *Criminal Law. Denmark*, Copenhagen: DJØF 2004, p. 164.

surrender or send the letter, unless the content is harmful to the investigation or to the maintenance of order and security in the detention centre. If a letter is withheld by the police, the question of whether the suppression should be upheld shall immediately be submitted to the court for decision. If the suppression is upheld, the sender shall be notified immediately, unless the judge, due to considerations to the investigation, makes a different decision. A remand prisoner always has the right to unsupervised exchanges of letters with the court, the defence council, the Minister of Justice, the Director of the Prison and Probation Service and with the Parliamentary Ombudsman.

In practice, the decision whether or not to impose restrictions in the right to receive visits or mail is taken by the prosecutor at the time when the decision on remand in custody (or the prolonging thereof) is taken by the court. The prosecutor may only make a decision to impose restrictions that are deemed necessary in accordance with Sec. 770 of the AJA.

According to Sec. 775 of the AJA, persons held on remand may be subjected to disciplinary punishment in the form of placement in a penalty cell for up to two weeks or confiscation of work compensation. These forms of punishments may be applied in combination.

Sec. 777 of the AJA rules that an unconvicted person may be (voluntarily or compulsorily) detained with convicted persons. If the unconvicted person has given his/her consent to the transfer to an institution where persons serve prison sentences he/she shall be treated according to the rules that apply to convicted persons. While a detainee, who has been transferred involuntarily shall be treated according to the rules that apply to remand detainees.

Remand detainees may complain against (the conduct of) employees at the detention centre. Their complaints shall be filed with the head of the centre concerned or the Prison and Probation Service (Sec. 778 of the AJA).

4. Grounds for pre-trial detention

According to Sec. 762.1. of the AJA, “an accused person may be detained on remand when there are grounds to suspect that he has committed an offence, which is subject to public prosecution, if, under the law, the offence may carry a penalty of imprisonment for one year and six months or more, and if

- 1) based on the information obtained about the circumstances of the accused, there are specific reasons to presume that he will abscond from prosecution or enforcement, or
- 2) based on the information obtained about the circumstances of the accused, there are specific reasons to believe that, if at large, he will commit another offence of the nature referred to above, or
- 3) based on the circumstances of the case, there are specific reasons to presume that the accused will impede the prosecution of the case, particularly by removing evidence or alerting or influencing others.”

Further, an accused person may be detained on remand if “there are strong grounds to suspect that he has committed

- 1) an offence which is subject to public prosecution and may carry a penalty under the law of imprisonment for six years or more, and due regard for enforcement of the law is found to require, considering the seriousness of the offence, that the accused shall not be at large, or
- 2) an offence in violation of section 119(1), section 123, section 134A, section 192A(1), section 218(1), section 222, section 224 or section 225 read with section 218(1) or section 222, section 235(1), sections 244-246, section 250 or section 252 of the Criminal Code or violation of section 232 of the Criminal Code committed against a child of less than 15 years, in case the offence may be expected due to the particulars of the seriousness of the circumstances to be punished with an unsuspended sentence of imprisonment for at least 60 days and due regard for enforcement of the law is found to require that the accused shall not be at large.”

This latter ground on which detention on remand is possible is called the 60-days rule and is often used as a ground for detention.

According to Sec. 762.3. of the AJA, “detention on remand shall not be used if the offence may be expected to be punished with a fine or imprisonment for any term not exceeding 30 days, or if deprivation of liberty will be disproportional to the resulting disruption of the circumstances of the accused, the significance of the case and the sanction that may be expected if the accused is found guilty”.

Sec. 763.1. of the AJA rules that when “there are grounds to suspect that a person has breached conditions laid down in a suspended sentence imposed under Parts 7 or 8 of the Criminal Code, in a conditional pardon or in a decision of release on parole, he may be detained on remand – pursuant to Sec. 763 AJA – if the court finds that the breach is of a character that gives rise to the question of enforcing the prison sentence of that person or committing him to an institution, and

- 1) based on the information obtained about the circumstances of the offender, there are specific grounds to presume that he will abscond from the consequences of the breach of the mentioned conditions, or
- 2) based on the information obtained about his circumstances, there are specific grounds to fear that if at large he will continue to breach the conditions and, considering the nature of the breaches, it is deemed necessary to prevent them by detaining him on remand”.

If there are grounds to suspect that a person has breached conditions laid down in a sentence or court order under sections 68, 69, 70 or 72 of the Criminal Code, the same applies (Sec. 763.2 of the AJA).

5. Grounds for review of pre-trial detention

According to Sec. 766 AJA, the court may withdraw an order for detention. Detention on remand may be rescinded by the court if prosecution is dismissed or the conditions for initiation are no longer present (Sec. 768 AJA). Moreover, detention on remand may also be rescinded if the court is of the opinion that the investigation is evolving too slow and that, consequently, continued detention is needless.

The court shall decide, upon request from the prosecution service, if an accused person shall be detained on remand. The court may prolong the detention for up to four weeks at a time. According to Sec. 764.1 of the AJA, a request for continued remand detention shall be submitted by the prosecution service to the court in writing and the request shall state the provision(s) concerned with prison sentences on which the prosecution service relies, the factual circumstances on which the request is supported and the most significant investigative steps etc., which are expected to be taken. If the court prolongs the detention it must reason the detention decision, unless the prisoner agrees upon the prolongation. An accused who is detained on remand or subject to another custodial measure must not necessarily be brought before the court in person if he waives this right or the court finds that his attendance will involve disproportionate difficulties. In this case, there may not be an oral hearing and the court need not reason the decision to prolong the decision with an additional four weeks. In the case that the remand prisoner appeals against the prolongation decision of the court, the appeal is treated on the basis of written material, unless the total duration of the remand detention is more than three months and the prisoner demands to have an oral hearing (Sec. 767.4 AJA).

When an indictment has been drafted and handed in to the court by the prosecution service, and the court has set a date for the trial, the court may decide that the pre-trial detention order should be prolonged until the delivery of the judgment. Sec. 767.2 AJA rules that “If the court has made such a decision, the accused may not apply to the court for termination of the detention on remand or alternative measure imposed under Sec. 766 or Sec. 768 until three weeks after the decision, at the earliest”. If the accused puts forward an application pursuant to Sec. 767.2 AJA, the court must make a decision on this application within 7 days. In the case that the court does not accommodate the application, the accused may make a new application but not earlier than 3 weeks after the court’s decision.

If a time limit for the length on the detention on remand as set pursuant to Sec. 767.1 AJA expires *after* the main hearing has commenced, the detention on remand or alternative measure shall continue without additional extensions until judgement is rendered in the case (see Sec. 767.3 AJA). The accused may request the court to rescind the detention on remand after the expiration of the time limit laid down prior to the trial. If the accused puts forward such a request, the court shall decide on this issue within seven days. If the court does not rescind the detention on remand, the accused may put forward another request, at the earliest within fourteen days after the court's decision. If there is a risk that the judge is not impartial, another judge or group of judges will be called upon to make the decision.

According to Sec. 768A AJA, the maximum period of the detention on remand must not be extended for a continuous period of 6 months when the accused is charged with an offence that does not carry a sentence under the law of imprisonment for six years or one year when the accused is charged with an offence that may carry a sentence under the law of imprisonment for six years or more unless special circumstances are involved. There are special rules on the maximum length of detention on remand concerning juveniles (less than 18 years old). Unless the court finds that very special circumstances are involved, detention on remand must not be extended for a continuous period that exceeds four month when the accused is charged with an offence that does not carry a sentence under the law of imprisonment for six years or eight month when the accused is charged with an offence that may carry a sentence under the law of imprisonment for six years or more.

According to Sec. 769.1 of the AJA, the court shall decide, upon request and after the case has been ended, if during a possible period of appeal or until sentence enforcement may be initiated, the defendant shall be detained on remand or remain detained or be subjected to an alternative measures instead of deprivation of liberty. In the case that the person has been detained on remand or subjected to another measure before his/her case has been decided in court and the court does not find sufficient grounds for prolonged detention or for the continuation of the other measure, the court may order upon request of the prosecution service that the detention or measure shall remain in force until a decision of the question of detention has been made by the higher court to which the case or the question of remand detention has been appealed. Sec. 769.2 mentions that "If the judgement passed in the case has been appealed to a higher court, which has ordered use of detention on remand or another measure after the conviction pursuant to subsection 1, the question of the continued detention or other measure shall as soon as possible be put before the superior court to which the sentence has been appealed".

6. Length of pre-trial detention

As a rule, remand in custody is decided upon by the court. The measure will be as short as possible. After four weeks, there has to be an oral court hearing. There are maximum periods of remand in detention of six month or one year, unless special circumstances are involved in the case. In the case of juveniles, very special circumstances have to apply and the maximum period is four or six months depending on the maximum length of sentence carried.⁴⁹

The principle of proportionality is important, meaning that "the detention ought not to exceed (two thirds of) the expected penalty, when the normal parole after two thirds is taken into account".⁵⁰ More than 10% of all pre-trial detentions are for three months or more.⁵¹ This fact was publicly discussed in Denmark and the former Minister decided to set a maximum period for pre-trial detention just before she left office.

⁴⁹ Sec. 768 a AJA

⁵⁰ Lars Bo, Peter Garde & Vagn Greve, *Criminal Law. Denmark*, Copenhagen: DJØF 2004, p. 165.

⁵¹ Information from the expert, available at

http://www.justitsministeriet.dk/fileadmin/downloads/Forskning_og_dokumentation/Rapport_2006.pdf

7. Other relevant aspects

7.1 Deduction of (foreign) pre-trial detention

According to Sec. 86 of The Danish Criminal Code, the length of the imposed imprisonment shall be reduced by a number of days proportionate to the length of time the prisoner spent remanded in custody. Custody for less than 24 hours (arrest) does not entail reduction. In the case of isolation, an additional period will be reduced from the imposed imprisonment: "A number of days are furthermore deducted corresponding to one day for every commenced period of 72 hours during which the convicted person has been isolated" (Sec. 86.1). If the final conviction is a fine, the whole fine or a part of it, shall be considered to have been paid.

In the case that the offender has been arrested, remanded in custody or hospitalised for mental examination abroad, the court shall decide the extent to which there should be any reduction in the penalty imposed (Sec. 86.4).

7.2 Compensation of unlawful and/or unnecessary pre-trial detention

Danish law does not provide for a distinction between lawful and unlawful deprivation of liberty in the calculation of imprisonment compensation. The rules on compensation for lawful but unduly/unnecessary and unlawful suffered deprivation of liberty are found in chapter 93a of the AJA ("Compensation with regard to criminal prosecution").

Each year, the Director of Public Prosecution issues a communication setting out guidelines for damages for false imprisonments. In 2008, within the first 24 hours of a false imprisonment the following rates are applied:

- 0 to 5 hours: 2200 Dkk.
- 5 to 10 hours: 3200 Dkk.
- 0 to 15 hours: 4200 Dkk.
- 15 to 24 hours: 5300 Dkk.

In the case that a person is detained for more than 24 hours, he or she is awarded 650 Dkk. for each following days he or she is detained. If the person has been placed under solitary confinement, he or she is awarded an extra 900 Dkk. a day. With regard to a serious sexual offence the damage awarded is increased with 25% and in the case of homicide, an assault with intent to kill or arson in accordance with Sec. 180 of the Criminal Code, the damages awarded is increased with 100%.⁵²

As the law does not provide for a distinction between lawful and unlawful deprivation of liberty in the calculation of imprisonment compensation, the rates mentioned below also apply in a case of unlawful deprivation of liberty.

Pursuant to Sec. 1018a AJA, any person who has been arrested or detained in custody as part of criminal investigation shall be entitled to compensation for the damage suffered if a charge is withdrawn or the defendant is acquitted. The reason should not be that the person is of unsound mind. Compensation is granted for both pecuniary and non-pecuniary damage.

Compensation for injury to feelings and for pain, thus the non-pecuniary damage, is awarded in accordance with the guidelines of the Director of Public Prosecution.

Compensation may also be granted even if the condition in Sec. 1018a AJA have not been fulfilled "if the detention applied in the course of the case is not in reasonable proportion to the outcome of the criminal prosecution or if for other special reasons this is found reasonable" (see Sec. 1018a.2 AJA). In the case in which measures have been taken against a person who has not been charged as part of criminal proceedings, he/she may be granted compensation if this is found reasonable. It is the Public Prosecutor who makes decision concerning claims for compensation pursuant to Sec. 1018a-1018d of the AJA.

⁵² Information obtained through personal communication with Katrine Busch from Danish Ministry of Justice.

7.3 Restrictions during pre-trial detention

According to Sec. 770.1 AJA, a person remanded in detention is only subjected to restrictions necessary to secure the purpose of the detention or the safeguarding of order and security in the place of detention. Upon request of the police, an accused can be put into isolation (“solitary confinement”). There are strict conditions for detaining a person separate from the other detainees. There must be specific reasons to believe that detention itself is insufficient to prevent the person from impeding the procedure, including through other inmates etc.⁵³

The Commissioner of Human Rights criticised the situation regarding solitary confinement by mentioning that “the use of isolation for remand prisoners had attracted significant criticism in previous years both from national and international actors. Concerns were particularly expressed over the severe psychological consequences of prolonged isolation, the fact that there was no maximum time limit for isolation and the excessively frequent use of restrictions.”⁵⁴

Following the report of the European Committee against Torture (CPT), the use of solitary confinement was reduced and legal safeguards were implemented. The rules for isolating detainees have become much stricter. The same goes for the rules for restricting a detainee’s right to have contact with the outside world (via letters and visits). Thanks to these measures, the use of isolation in pre-trial detention was reduced by 51% between 1998 and 2002.⁵⁵ However, it started growing again in 2005.⁵⁶

The police can oppose that a detainee receive visits. Moreover, they can insist that visits take place under supervision. The police may inspect letters and impose other restrictions on (the rights of) detainees. In practice, the decision whether or not to impose restrictions in the right to receive visits or mail is taken by the prosecutor at the time when the decision on remand in custody (or the prolonging thereof) is taken by the court; the prosecutor may only make a decision to impose restrictions that are considered necessary in accordance with Sec. 770 of the AJA.

7.4 Alternatives to pre-trial detention

If the conditions for detaining a person on remand are satisfied while the purpose of the detention may be achieved through less interfering measures, the court shall, if the accused consents, impose such a measure in place of detention. Pursuant to Sec. 765 AJA, “the court may decide that the accused shall:

- a) submit to supervision as determined by the court;
- b) observe specific conditions as to his residence, work, use of spare time, and association with certain persons;
- c) reside in a suitable home or institution;
- d) submit to psychiatric treatment or treatment for abuse of alcohol, narcotics or other substances, if necessary in a hospital or special institution;
- e) report to the police at specified times;
- f) deposit his passport or other papers of identification with the police;
- g) provide financial security at an amount determined by the court for his presence at court hearings and for the enforcement of a sentence imposed.”

This is not an exhaustive list, because other measures are possible unless ordered by the court.

⁵³ See chapter 70, Sec. 770A-770E AJA for information on solitary confinement.

⁵⁴ Report by Mr. Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights, *On his visit to Denmark*, following his visit from 13 to 16 April 2004, CommDH (2004) 12, July 8, 2004, available at http://www.coe.int/t/commissioner/WCD/visitreportsbycountry_en.asp#

⁵⁵ *Ibid.*, paragraph 41.

⁵⁶ Memorandum to the Danish Government. Assessment of the progress made in implementing the 2004 recommendations of the Council of Europe Commissioner for Human Rights, CommDH (2007) 11, 11 July 2007, available at http://www.coe.int/t/commissioner/WCD/visitreportsbycountry_en.asp#

7.5 Execution of pre-trial detention

In principle, pre-trial detention takes place in institutions that are governed, controlled, and supervised by the Department of Prisons and Probation. Pre-trial prisons are located in close vicinity to the court buildings and are designed to accommodate persons awaiting trial, sentenced persons serving a short sentence (of six months or less), and sentenced persons awaiting placement in a prison.⁵⁷ Pre-trial prisons have a similar level of security as regular closed prisons. In open prisons, detainees are able to walk around rather freely during the day.⁵⁸

Detainees are placed in a detention centre in the region where the criminal case is being processed.⁵⁹ Placement in an institution for individuals serving a prison sentence or preventive detention, or placement in a hospital, is possible only if the accused, the prosecution, and the institution's administration consent. (Re-)placement without the individual's consent is possible for reasons of his health or the health of others.⁶⁰

In line with recommendations made by the CPT,⁶¹ Sec. 776 rules that "as for detainees, who are isolated (...), the Minister of Justice issues special rules about intensified staff contact, increased rights to visits, special access to one-on-one education and certain kinds of work, as well as offers of regular and prolonged conversations with priests, physicians, psychologists, or others".⁶²

8. Special groups

8.1 Juveniles

After the lapse of the maximum period of arrest (24 hours), pre-trial detention may be applied to young offenders.⁶³ However, the main rule is that substitutes (e.g. secure accommodation facilities) should be used. If a suspect is aged between 15 and 18, the authorities are obliged to make an effort to find an alternative institution, other than a prison. In practice, people within this age category are rarely placed in a prison.⁶⁴

There are specific provisions for juvenile offenders, such as Sec. 33.3 in The Criminal Code – General Part, which rules that for an offender who had not reached the age of 18 at the time of the crime was committed the punishment of imprisonment may not exceed 8 years. Also, Chapter 9 of The Criminal Code, "Other Legal Consequences of a Punishable Act", contains rules especially designed for juvenile offenders. Sec. 74a of Chapter 9 of The Criminal Code mentions that the court may decide that the individual – who at the time of the crime had not reached the age of 18 and has committed a serious person endangering offence or another serious offence – shall submit to structured, supervised, social-pedagogical treatment for the duration of two years if it is deemed useful for the prevention of further offences.

In 1999, the Supreme Court ruled that solitary confinement may be used only in exceptional cases. Juveniles cannot be held in solitary confinement for more than eight uninterrupted weeks. In 2001, a 17-year-old charged with robbery was held in solitary confinement for fifteen days.⁶⁵

⁵⁷ By: Anette Storgaard in: A.M. van Kalmthout, F.B.A.M. Hofstee-van der Meulen, F. Dünkler, *Foreigners in European Prisons. Volume 1*, Nijmegen: WLP 2007, p. 210.

⁵⁸ *Ibid.*, p. 211

⁵⁹ Chapter 70, Sec. 770.2 AJA.

⁶⁰ Chapter 70, Sec. 777 AJA.

⁶¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Danish Government carried out by the CPT, from 28 January to 4 February 2002, 12 December 2007, CPT/Inf (2007) 46, available at <http://www.cpt.coe.int/documents/dnk/2007-46-inf-eng.pdf> (last retrieved 24 February 2009).

⁶² Chapter 70, Sec. 776 AJA.

⁶³ By Britta Kyvsgaard in: M. Tonry and A.N. Doob (ed.), *Youth Crime and Youth Justice, Comparative and Cross-National Perspectives*, Chicago and London: The University of Chicago Press 2004, p. 369.

⁶⁴ By: Anette Storgaard in: A.M. van Kalmthout, F.B.A.M. Hofstee-van der Meulen, F. Dünkler, *Foreigners in European Prisons. Volume 1*, Nijmegen: WLP 2007.

⁶⁵ By Britta Kyvsgaard in: M. Tonry and A.N. Doob (ed.), *Youth Crime and Youth Justice, Comparative and Cross-National Perspectives*, Chicago and London: The University of Chicago Press 2004, p. 369.

8.2 Women

Women should be detained separate from male prisoners. In Denmark, there are specific provisions for mothers (and also for fathers) with children.

8.3 Foreigners

Gender and national background are not taken into account in the legal framework. Therefore, foreigners are not placed in special units and are subject to the same rules as Danish nationals. Foreign detainees, too, should be placed in a prison as close as possible to their relatives. Foreigners are mostly detained in closed prisons or pre-trial institutions. On 4 November 2005, the size of the prison population was 12,906, of which 2% were foreigners. This number was more or less the same in May 2004.

As regards arrest and detention on remand, the police have to inform foreigners about their right to contact their country's Embassy or Consulate. If this is needed and possible, an interpreter will be appointed to assist the accused.⁶⁶

8.4 Alleged terrorists

With regard to arrest or remand detention, no special provisions are foreseen in Danish law for alleged terrorists.

BIBLIOGRAPHY

1. Marcello F. Aebi & Natalia Delgrande, SPACE I (Annual Penal Statistics of the Council Of Europe), 23 January 2008, PC-CP (2007) 9 rev3, available on [http://www.coe.int/t/e/legal_affairs/legal_co-operation/prisons_and_alternatives/statistics_space_i/pc-cp%20\(2007\)%2009%20rev3%20-%20e%20\(SPSPACE%202006\)%2023-01-08.pdf](http://www.coe.int/t/e/legal_affairs/legal_co-operation/prisons_and_alternatives/statistics_space_i/pc-cp%20(2007)%2009%20rev3%20-%20e%20(SPSPACE%202006)%2023-01-08.pdf)
2. Kauko Aromaa and Markku Heiskanen (eds.), 55. *Crime and Criminal Justice in Europe and North America 1995-2004*, Helsinki 2008, p. 158, available at <http://www.heuni.fi/43087.htm> (accessed 3 January 2009)
3. Lars Bo, Peter Garde & Vagn Greve, *Criminal Law. Denmark*, Copenhagen: DJØF 2004
4. By Eva Smith in: F. Dünkel/Jon Vagg, *Untersuchungshaft und Untersuchungshaftvollzug/Waiting for Trial*, Freiburg: Max-Planck-Institut 1994
5. Malene Frese Jensen, Vagn Greve, Gitte Høyer & Martin Spencer, *The Principal Danish Criminal Acts. The Danish Criminal Code, The Danish Corrections Act, The Administration of Justice Act (experts)*, Copenhagen: DJØF 2006
6. By Anette Storgaard in: A.M. van Kalmthout, F.B.A.M. Hofstee-van der Meulen, F. Dünkel, *Foreigners in European Prisons. Volume 1*, Nijmegen: WLP 2007
7. By Lisbet Heine in: A.M. van Kalmthout & I. Durnescu (eds.), *Probation in Europe*, Nijmegen: Wolf Legal Publishers 2008
8. C. Morgenstern, "Pre-trial detention in Europe: Facts and Figures and the need for common minimum standards", to be published in Trier: Europäische Rechtsakademie (ERA)/Forum 4/2008, available at www.era.int
9. Mowbray, *Cases and Materials on the European Convention on Human Rights*, Oxford: University Press 2007
10. J. Murdoch, *The treatment of prisoners, European standards*, Strasbourg: Council of Europe 2006
11. By William Rentzmann in: Peter J.P. Tak & Manon Jendly (eds.), *Prison policy and prisoners' rights*, Nijmegen: Wolf Legal Publishers 2008
12. By Britta Kyvsgaard in: M. Tonry and A.N. Doob (ed.), *Youth Crime and Youth Justice, Comparative and Cross-National Perspectives*, Chicago and London: The University of Chicago Press 2004

⁶⁶ Kriminal Forsorgen, *Guidelines for detainees and remand prisoners*, available on <http://www.kriminalforsorgen.dk/>

13. S. Trechsel, *Human Rights and Criminal Proceedings; The special rights of persons detained on remand*, Oxford: 2005
14. Kriminal Forsorgen, *Guidelines for detainees and remand prisoners*, available at <http://www.kriminalforsorgen.dk/>
15. Crime and Society, *A comparative criminology tour of the world: Denmark*, available at <http://www-rohan.sdsu.edu/faculty/rwinslow/europe/denmark.html>
16. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Danish Government carried out by the CPT, from 28 January to 4 February 2002, 12 December 2007, CPT/Inf (2007) 46, available at <http://www.cpt.coe.int/documents/dnk/2007-46-inf-eng.pdf>
17. Memorandum to the Danish Government. Assessment of the progress made in implementing the 2004 recommendations of the Council of Europe Commissioner for Human Rights, CommDH (2007) 11, 11 July 2007, available on http://www.coe.int/t/commissioner/WCD/visitreportsbycountry_en.asp#
18. Report by Mr. Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights, On his visit to Denmark, following his visit from 13 to 16 April 2004, CommDH (2004) 12, July 8, 2004, available on http://www.coe.int/t/commissioner/WCD/visitreportsbycountry_en.asp#
19. United States Department of State, the Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices 2007, Denmark*, 11 March 2008, available on
20. <http://www.state.gov/g/drl/rls/hrrpt/2007/100556.htm>
21. Lene Ravn, *World Fact book of Criminal Justice Systems: Denmark*, available on
22. <http://www.ojp.usdoj.gov/bjs/pub/ascii/wfbcjden.txt>
23. R. Walmsley, *World Pre-trial / Remand Imprisonment List, Pre-trial detainees and other remand prisoners in all five continents 2007*, available on <http://www.kcl.ac.uk/depsta/law/research/icps/downloads/WPTRIL.pdf>

Case-law

ECtHR Rhode vs. Denmark, Application No. 69332/01, 21 October 2005

“In these circumstances, the Court finds that the period of solitary confinement in itself, lasting less than a year, did not amount to treatment contrary to Article 3 of the Convention.”⁶⁷

ECtHR Hauschildt vs. Denmark, Application No. 10486/83, 24 May 1989

“In the Court’s view, therefore, the mere fact that a trial judge or an appeal judge, in a system like the Danish, has also made pre-trial decisions in the case, including those concerning detention on remand, cannot be held as in itself justifying fears as to his impartiality.”⁶⁸

⁶⁷ ECtHR Rhode vs. Denmark, Application No. 69332/01, 21 October 2005, paragraph 98.

⁶⁸ ECtHR Hauschildt vs. Denmark, Application No. 10486/83, 24 May 1989, paragraph 50.