

A FIRM HAND

DANISH POLICIES ON REJECTED
ASYLUM SEEKERS AND RETURN

MICHALA CLANTE BENDIXEN
REFUGEES WELCOME

A firm hand – Denmark's policy on rejected asylum seekers and return

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Front page photo: entrance gate at deportation centre Kærshovedgård

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THANK YOU!

A lot of people have helped issuing this report. Julie Rask was my intern during the first phase and helped collecting data. Nanna Vedel-Hertz has done proof-reading and important editing based on her skills as a journalist. A lawyer with expertise on this subject has done professional corrections. Some of the most knowledgeable researchers on human rights, asylum and migration have provided background information and answered questions: Martin Lemberg-Pedersen, Carolina Sanchez Boe, Zachary Whyte, Ninna Nyberg-Sørensen, Thomas Gammeltoft-Hansen, Nikolas Feith Tan, Katrine Syppli Kohl and Annika Lindberg. Employees from the Danish Refugee Council with many years of experience in the field have also replied to my questions, and the same goes for the asylum department of the Danish Red Cross.

Several others have contributed with answers and quotes, referred to by name and title. However, the most important contributions in the report are the many qualitative interviews with refugees which Julie and I carried out, and from which I have chosen a number of quotes. The refugees come from different parts of the world and have different ages and genders – some of whom were granted asylum immediately in Denmark, others after many years and some never. Refugees who were interviewed or described in case stories have all been anonymized for a number of reasons. Their names have been changed, and in some cases their home country has been changed to a neighbouring country.

A special thank you to the team of voluntary translators and proofreaders for the English version!

“They say the door is open, and you can leave when you want. But most people have fingerprints here, so if they go to another country, they will be sent back to Denmark. The only option is to return to your home country, and sometimes Denmark can't do that. So why keep us in a centre like this? We have a strong feeling of regret. We wish somebody had told us before we came, how little our lives matter in this part of the world. That asking for asylum could lead to criminalization, arbitrary detention, and losing the right to live as a human being. We are the cast away souls of Denmark.”

- Edward Stanley in the documentary film Cast Away Souls, 2017

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INTRODUCTION

This report is about those who have been denied asylum, and why they don't travel home. It describes the different groups, their quality of life, how many of them there are, and how long they are here. It describes their legal options, and concludes with a series of recommendations for alternative and real solutions, based on research and interviews – not least with refugees themselves.

Over 38 years the Danish strategy toward asylum seekers has been based upon a theory that, if their living conditions are kept exceptionally poor, they will travel home voluntarily. And if we grant residence for those with the unresolvable cases, it will make Denmark a magnet for more of them. There is absolutely no evidence for this theory, and experience shows clearly that it doesn't work. The only result is thousands of destroyed lives and a huge waste of tax money.

The discussion about rejected asylum seekers who stay confined in the asylum centres year after year and cannot be sent home has occupied the Danish people, their media and their politicians for many years. Only a very small number of people are in this situation, and the problem could be solved relatively easily within the confines of existing legislation. Regardless, the government has recently found it necessary to create an entirely new agency and a new law regarding this small group: The Return Agency and the Repatriation Law.

There is a great emphasis on those who have been stuck in the deportation centres for many years, usually because of problems with obtaining travel documents and resistance from their home countries to receive them back. There is a much smaller focus on the largest group: those who “disappear”, and often end up more or less illegalized and disenfranchised in Europe – a consequence that the government is apparently quite happy with. Common for people in these groups is a deep fear of being returned to their home countries.

15 years ago I read in the newspapers about children wasting their whole childhood in the asylum centres Avnstrup and Kongelunden after the war in Kosovo. I thought that this couldn't be right – and that caused me to commit to work for a better refugee policy and to gradually build the organisation Refugees Welcome. Today the situation is even worse, after a short period of small improvements. It still can't be right, and I have found many solutions.

Michala Clante Bendixen

“The political desire to stop immigration is not a realistic policy, and neither is it economically advantageous. The road to a more realistic method of regulating migration is to expand the possibilities to come to Denmark legally and be allowed to stay. It will raise more questions about the labour market and welfare regulation that politicians will have to address. But the current policy spends a huge amount of money on motivational measures, which are directly harmful for people, and which not only don’t increase state ‘control’ of migration, but in fact does the opposite.”

- Annika Lindberg, researcher, Copenhagen University

1. METHODS AND RESULTS

This report is not an academic treatment: it is meant for a broad audience, namely everyone who is interested in the subject. The goal is that the reader will become a little bit more informed about the subject matter, and that those who have an influence on policy will begin to work in a more constructive manner.

Before I started writing, my assistant Julie Rask and I gathered all of the research, recommendations and statistics we could find. Next we engaged in discussions for background with a number of researchers and organisations, and we conducted a number of interviews with refugees in Denmark from different countries and with different legal statuses. Finally we sent a list of questions in writing to selected researchers and professionals in the field. The case stories, which illustrate different problems, are taken from my many years working as a counselor.

All of those questioned were in agreement that the present policy is both useless and counterproductive. They were also surprisingly in agreement on the recommendations, illustrated in the report's citations. So, on the one hand we have a majority in Parliament that clings fast to the established trajectory, and on the other hand everyone who knows anything about the subject recommends something entirely different.

On the 4th of August 2020 there was, according to the National Police 1,072 rejected asylum seekers in exit positions, of which 566 were categorised as 'unresolvable' and 188 as 'limited deportation possibilities' by the police, who up to now have had the responsibility for deportations. Those rejected come from 68 different countries, with Iran and Iraq constituting the largest groups with 372 and 104 persons respectively (JJ).

The causes making a case unresolvable can be many. They can relate to the homeland's lack of will to issue travel documents or to accept people back. They can also relate to people being afraid to return home, and therefore not wishing to work with Danish authorities to be returned.

The number of people that the police count as having unresolvable cases has been relatively stable over the years, even though situations in home countries change gradually. The count is remarkably independent of the vastly fluctuating number of people arriving, which is between 2,000 and 20,000 per year. 42 people have been stuck in the system for more than 10 years, and one has been there for 27 years and counting. By far the largest number of people disappear from the statistics: going underground or trying for better results in another country – which is not a desirable consequence.

There isn't much research as to why those denied asylum refuse to travel home, or what could possibly convince them to travel voluntarily, and what happens to those who in fact do return.

Based on symbolic political gestures and gut feelings, politicians have insisted on putting pressure on rejected asylum seekers, hoping that they would eventually give up and decide to travel voluntarily. In cases where it has been possible, they've been sent back forcibly with no follow up as to how they fared.

Since the 1990s there have come tougher and harsher restrictions, but these have not led to more voluntary returns. The only result has been more people becoming sick, higher costs and a larger number of people disappearing from the system – i.e. going underground or obtaining residence in another country, even though the Dublin regulations should prevent this.

The argument for this pressure policy has always been, across the political spectrum, that one should not be able to “sit down and wait for residence,” and that any kind of amnesty or humanitarian approach would lead to a strongly increased influx (the so-called pull effect). There is, however, no basis in research for this argument, and it is contradicted by the experience of all refugees we have interviewed. Most of them came to Denmark either randomly or involuntarily, without any prior knowledge of the rules.

The current policy builds on a number of assumptions unsupported by evidence, and most cases could likely be solved through a number of alternative methods, without having to create a large increase in new arrivals. When “fixing rooms” and medically prescribed heroin were introduced it did not lead to more addiction, but increased addicts' motivation to enter into treatment.

Rejected asylum seekers have many different reasons for why they can't return home. Some of them are intimidated at the prospect of returning home to a life on the streets without support. This group could be offered individualized solutions for education, support and reception in their homelands. Others are very afraid of being killed or attacked, and these concerns should be taken seriously, even though they might not be sufficient grounds for asylum. Firstly, their subjective fear is a part of the right to asylum; secondly, the case could have been wrongly decided and thirdly, there might also be humanitarian grounds for granting residence. Finally, there are practical problems with confirming identity, procuring travel documents and gaining the homeland's agreement – which isn't always up to the rejected asylum seeker.

In all of the mentioned cases there is the possibility for giving temporary residence within the Aliens Act, if the case isn't settled after a few years: vis-à-vis humanitarian residence, obstacles to deportation, deference to the child's best interests. However these are consistently rejected by the Immigration authorities due to a political wish.

Maintaining and building competencies and self-determination is a prerequisite for the success of any kind of return process. Waiting times in the asylum decision phase should be shortened, since they are very mentally debilitating. At the same time it is necessary to ensure as normal and as independent a life as possible, both for those who are waiting for a decision on their cases and for those who have been rejected.

Further, one could remove the illogical barriers preventing rejected asylum seekers from even applying for a permit due to family ties or due to study or work. This report's case stories show that many cases could and should have been resolved many years ago.

The policy that has been pursued in the last years has proven directly to blame for an increasing number of people ending up in this hopeless situation. Denmark has taken a harder line than most other countries in the EU, and has given more refusals. Even people who have previously lived normal and self-sufficient lives in Denmark are ending up in the deportation centres now, as residence permits for refugees from Somalia and Syria are revoked with the full knowledge that it is not possible to deport to these countries by force. In 2021 a larger number of cases withdrawing residence is expected than new applications for asylum to the Refugee Appeals Board.

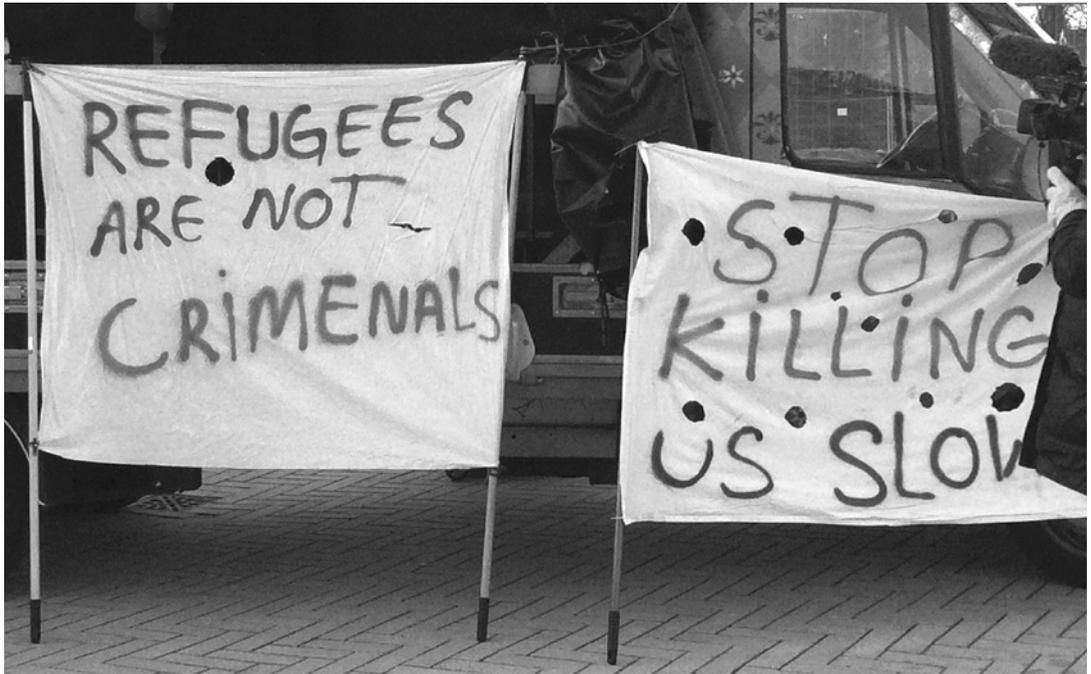
The current policy generally also deprives more foreigners of residence as even relatively trivial crimes can lead to expulsion sentences and administrative expulsion decisions. Statistics also show that more and more people are ending up on Tolerated Stay, which is the ultimate limbo.

The report's results and recommendations summarized:

- many years of an increasingly hard line in putting pressure on rejected asylum seekers has not led to more voluntary departures;
- the hard line toward those rejected has negative and directly harmful consequences as well as great human and financial costs;
- there are already a number of possibilities within the law that could resolve many deadlocked cases;
- there is a need for better and more active living conditions both during the asylum procedure and for those who have been rejected;
- there is no evidence for the argument that a more pragmatic approach will increase the number of people entering the country;
- the number of rejected asylum seekers is partly a consequence of the immigration policy pursued.

The recommendations can be read in more detail in Chapter 10.

Demonstration in Allerød, when Sjælsmark opened as the first deportation centre in 2015



The action Walk Out of the Camps in 2012, where asylum seekers from all of the asylum centres in Zealand marched all the way to the Town Hall Square in Copenhagen

2. THE LEGAL SITUATION FOR REJECTED ASYLUM SEEKERS

DESCRIPTION OF THE DIFFERENT GROUPS IN THE EXIT POSITION

This report is about all of the people in Denmark who are not able to stay legally, and who therefore stand to be deported. The technical term is that these foreigners are in the “exit position”. Foreigners in the exit position include several different groups, having greatly different circumstances and opportunities. For convenience, they are all referred to most often in the report as “rejected”.

Most asylum seekers have themselves travelled to Denmark and have applied for asylum; but often as an unwanted consequence of them being “caught” at the border without a valid passport and visa, they have had their fingerprints taken and have had to seek asylum in Denmark, even though they were actually on their way to Sweden or Norway. They might also have had a visa to Denmark, or close family here. The first thing to consider is whether it is Denmark’s responsibility to process their asylum case under the Dublin Regulation. According to this regulation, one cannot travel to another country after a rejection for asylum; they will be sent back to Denmark.

Asylum seekers with a final rejection in the normal asylum procedure constitute the largest group of persons in the exit position. These persons have been refused asylum by the Danish Immigration Service, and the automatic appeal with legal assistance has been affirmed by the Refugee Appeals Board, i.e. the Board has upheld the Danish Immigration Service’s refusal of asylum. In connection with the refusal, the Refugee Appeals Board sets a deadline for the person to leave (typically 7 days). If the person has not left before that time, she is thus in an exit position.

Asylum seekers with a rejection under the Manifestly Unfounded Urgent Procedure (ÅGH) constitute a smaller group, and consist primarily of persons from Albania and Georgia. Here the Danish Immigration Service announces their refusal after a shorter process, and there is no automatic right of appeal to the Refugee Appeals Board as in the normal procedure. This is for people who come from countries where one will only rarely be entitled to asylum in Denmark (i.e. citizens of the EU, Australia, Canada and the USA).

Asylum seekers with rejections under the Manifestly Unfounded Procedure (ÅG) have been deemed by the Danish Immigration Service to have cases that are manifestly unfounded because the conditions of their case do not meet the requirements for asylum. Both ÅGH and ÅG rejections must be submitted to the Danish Refugee Council (DRC), which has the opportunity to veto the rejection. In that case, the case will be automatically appeal to the Refugee Appeals Board. The deportation deadline

in ÅGH/ÅG cases are set as immediate, unless the case has been appealed to the Refugee Appeals Board – then the departure deadline is for 7 days, after which the person will enter the exit position.

Individuals affected by the Dublin Regulation are also confined in the deportation centres while it is decided whether another European country will take them back. The Danish Immigration Service's decision on the transfers can be appealed to the Refugee Appeals Board. Usually it takes only a few months before the person affected can be sent to another European country, and most people want to leave voluntarily. But in some cases the process is drawn out because no country wants to take responsibility for the individual or because there are fundamental complaints about the recipient country – and this may result in Denmark processing the case itself.

Withdrawal or the denial of extension of a residence permit means that an individual has previously had a residence permit, but that the authorities no longer believe conditions are present to further justify it. This can happen with a divorce in a family reunification case, or if it is assessed that a refugee no longer needs protection. Before a law change in 2015 it happened only very rarely for refugees, but in recent years it has affected hundreds of Somalis and Syrians in recent years. By 2021, 900 Syrian cases are pending with the possibility of revocation. You can also have your residence permit revoked if it so emerges that it was obtained via fraud. There is a right to appeal to the Refugee Appeals Board or the Immigration Appeals Board, depending on the residence permit. You will first enter the exit position when the case is finally settled and the departure deadline has been exceeded. This deadline is usually set to 30 days.

Lapse of a residence permit occurs if you have stayed outside of Denmark for too long. There is a right of appeal to the Refugee Appeals Board or the Immigration Appeals Board, depending on the residence permit.

Expulsion by conviction occurs when a court has given final judgment that the individual has committed a crime leading to loss of residence permit. An entry ban will be imposed in Denmark depending on how serious the crime is, but in most cases the entry ban is 6 years. When the individual has served all – or in the case of probation – part of her conviction, she will enter the exit position. If the foreigner had asylum in the country before her deportation sentence, the Danish Immigration Service must subsequently assess whether they can be deported at all, and this decision will be appealed automatically to the Refugee Appeals Board. The case will be processed while the individual continues to serve her sentence or is confined to a deportation centre.

Administrative expulsion occurs when the Danish Immigration Service (rather than a court) has made the deportation decision. One can, for example, be expelled administratively for petty theft or drug crimes, illegal work and residence, or if you don't cooperate in the return procedures. At the same time, an entry ban to Denmark of typically 2 years will typically be imposed.

Tolerated Stay is the situation you end up in if deportation to your home country will put you at risk of torture or cruel, inhuman or degrading treatment or punishment. It can affect both the asylum seeker, due to conditions in her home country (grounds for exclusion), or the refugee who has had a residence permit but due to criminal charges in Denmark has been deported and lost her residence permit. It is thus a kind of legal vacuum where she has lost her permission to reside and the right to work, study, receive benefits etc. but at the same time cannot be deported to her home country. Most on Tolerated Stay are obligated to stay in the deportation centre Kærshovedgård and report in at regular intervals. The duty to reside can be lifted after a number of years, but those affected will still lack basic rights. When you are on Tolerated Stay, you are not in the exit position, as there are obstacles preventing your deportation.

Illegal residence: some of the statistics also relate to people in situations which are seldom lengthy or complicated and we do not deal with these in this report, eg. dropouts (when you have withdrawn your asylum application yourself) or rejections pursuant to § 29b of the Aliens Act (when the individual can be expelled because she has obtained protection in another EU country).

WHAT OPTIONS DO YOU HAVE AFTER REFUSAL OF ASYLUM?

The new Repatriation Law, which entered into force on the 1st of June 2021, has introduced some changes and adjustments, but by and large the options are the same as before. There has been a great focus on acting immediately after a case is rejected – in fact, authorities will speak about deportation before applications are rejected, and as soon as individuals arrive in the country! But rejected applications come as a shock to people, no matter how much one has tried to prepare them for it. All hope is taken from them in an instant, and an abyss opens up before them. They need time to understand it, and to discuss it with a lawyer, an independent counselor and their friends and family.

Conversely, it was also not a good solution in the past when a person who has had their application rejected could wait for half or a full year to be summoned to the first meeting with the police, while the case stood still. There is a need to understand the new situation relatively quickly and come up with solutions – but no one is able to process the situation the same day the rejection has been received, and an exit deadline of 7 days is completely unrealistic.

Withdrawal of appeal over refusal of asylum and return support

After a rejection from the Danish Immigration Service (1st instance), the applicant will be contacted by the Danish Return Agency and informed about the chances of having the case overturned at the 2nd instance (Refugee Appeals Board). If you drop the appeal to the Refugee Appeals Board within 14 days after the Danish Immigration Service's decision on the refusal of asylum and thus give up your asylum case, you will

receive 20,000 DKK to return to your home country. If you drop your appeal after the 14 day deadline, the amount will be halved. This is a new practice; previously the case would be automatically appealed.

Return contract (participation on returning)

When you receive a final rejection, you are also assigned an exit deadline that is usually 7 days. Before the departure deadline expires, you must decide whether you want to sign a contract to cooperate with the Danish Return Agency and leave voluntarily. The Return Agency will speak to the rejected individual immediately after receiving the rejection from the Refugee Appeals Board. This will also happen if you dropped your application for asylum.

Cooperation with the Danish Return Agency on deportation involves active participation, which i.a. includes:

- keeping appointments with the Return Agency;
- meeting with the home country's representatives;
- obtaining or assisting in obtaining travel documents;
- participating in planning the return and its implementation;
- participating in the operation of the place they are housed;
- participating in internships outside of the place they are housed.

The above conditions for cooperation may be included in the return contract, specifically and after discussion with the individual affected. If you do not want to enter into a return contract, the terms of the contract will be determined by the Return Agency without discussion with the individual affected.

It is the Return Agency that assesses whether or not you are complying with the contract, and there is no right of appeal, though there is a duty to hear the involved parties.

Cooperation on returning

One of the advantages of participating in the return is that the departure deadline is extended by the Return Agency, which avoids a further entry ban. You can also receive limited cash benefits during the stay as well as a grant amount after arrival in the home country. In addition, you can stay at a return centre, which has better conditions than the deportation centres. There are also offers for short courses and the purchase of materials for getting set up after return to your home country, though these are very limited. Cooperation on return will also normally mean that you are not arrested and imprisoned in Ellebæk (the special prison for non-criminal foreigners, see more on page 39).

If your residence permit has been revoked, there is a deadline before the final decision where you can apply for repatriation support, which constitutes a significantly higher amount than the regular repatriation allowance. This presupposes, however, that you cooperate with the authorities.

Samtykkeerklæring om medvirken til hjemrejse/udsendelse

Udlændingen er vejledt om følgende:

- En udlænding, der ikke har ret til at opholde sig her i landet, skal udrejse af landet, jf. udlændingelovens § 30, stk. 1.
- Hvis udlændingen ikke udrejser frivilligt, drager Hjemrejsestyrelsen omsorg for udrejsen, jf. udlændingelovens § 30, stk. 2.
- Når Hjemrejsestyrelsen drager omsorg for en udlændings udrejse, skal udlændingen meddele de nødvendige oplysninger hertil og medvirke til tilvejebringelse af nødvendig rejselegitimation og visum og til udrejsen i øvrigt jf. udlændingelovens § 40, stk. 6.
- Hvis udlændingen ikke har overholdt den udrejsefrist, som udlændingemyndighederne har fastsat, jf. udlændingelovens § 33, må udlændingen påregne at blive udsendt af landet af Hjemrejsestyrelsen.
- Medmindre udlændingen opfylder betingelserne for lovlig indrejse i et andet land, vil udsendelse kun kunne ske til det land, som udlændingemyndighederne har bestemt.

Med sin underskrift erklærer udlændingen, at denne ønsker at medvirke til sin udsendelse af Danmark til det land, som udlændingemyndighederne har bestemt.

Med sin underskrift erklærer udlændingen også, at denne ønsker, at

- medvirke til fastlæggelsen af sin identitet,
- medvirke til fremskaffelsen af ID-dokumenter og rejselegitimation,
- samarbejde med Hjemrejsestyrelsen om planlægning og gennemførelse af en udsendelse til det land, som udlændingemyndighederne har bestemt.

Hvis udlændingen ændrer holdning til spørgsmålet om medvirken til sin udsendelse, må denne selv rette henvendelse til Hjemrejsestyrelsen.

PID/CPR: [redacted]

Dato: [redacted]

Vedstået

[redacted]
Udlænding

[redacted]
Hjemrejsekoordinator

[redacted]
Tolk nr.

Return Contract, Danish version. There is also an English version, but most often it is translated orally and signed in Danish.

Lack of cooperation on returning

If one does not sign or abide by the contract, including not showing up to meetings with the Return Agency or not actively helping to provide travel documents, you will automatically be banned from entering in the future. In addition you will lose access to financial repatriation support and the right to participate in educational and other activities, as you are transferred to a deportation centre, where you will be required to live, to report regularly and will be deprived of all benefits. However, all families with children will remain in the combined return and deportation centre Avnstrup, regardless of whether they participate in their deportation or not.

The Return Agency conducts regular interviews where it is assumed that the individual is staying, and may ask the police for help. If you are deprived of your liberty, e.g. because you do not wish to participate in your return, you will be sent to Ellebæk.

If the Return Agency assesses that you are not cooperating, you will receive a notice that contains the justification for their assessment. The decision cannot be appealed.

Failure to cooperate on your return may be punishable by a fine or imprisonment up to 4 months, and imprisonment for up to 18 months for non-criminal asylum seekers can be used as a motivational measure.

There is the possibility of cooperation on your return process at a later date, but in that case one can only receive a reduced sum of financial support. The condition for any support is that you have participated in the process for a minimum of 2 months.

Final rejection

A rejection in the Refugee Appeals Board cannot be appealed further in the legal system, and there is no access to the courts or Ombudsman. The only option is to apply to reopen the case, and this requires new, crucial information, about the case, or for the situation to have changed subsequent to the rejection, either in the home country or with respect to the Refugee Appeals Board's practice.

In 2019, 16% of cases were overturned in the second instance, i.e. were granted asylum by the Refugee Appeals Board after the Danish Immigration Service had initially rejected the cases. So even with the best lawyer, the chances of success are low. Reopening of cases were sought at the board level in 289 cases, of which 78 were reopened and 44 were remanded to the Immigration Service. A few have succeeded in petitioning UN human rights committees via their lawyers, but even if the UN confirms the petition, the outcomes will not necessarily be overturned.

In my report "Well-founded Fear – credibility and risk assessment in Danish asylum cases" from 2020 (N) one can read in detail about the whole asylum procedure, not least its weaknesses, and see statistics for the decisions. See also chapter 6 page 87: 'Are all rejections correct?'

Legal status

As long as an asylum case is pending, you have a “procedural stay”, i.e. you are allowed to reside in the country with very limited rights. This is also called phase 2 (phase 1 is before the case is opened). After a final refusal, it is illegal to stay in Denmark and you have a duty to leave (phase 3). If the case is reopened, or if you file an application for a humanitarian stay, for example, you can return to phase 2, as long as the application is considered to justify a suspension of process, i.e. merit a procedural stay.

The period in which you stay in Denmark with either illegal or procedural stay does not count as an attachment to Denmark. This means that even if a child is born in Denmark and has lived here all her life, the child will still have no legal affiliation, if the entirety of the child’s stay has been without a residence permit.

LIMITED POSSIBILITIES FOR ACHIEVING LEGAL RESIDENCE

The situation as a rejected asylum seeker is usually almost hopeless. The possibility of getting a case reopened or applying for residency for humanitarian reasons are very small. The possibility of residence on other grounds such as family or work is also extremely limited, once a rejection has been received. At the same time, the Dublin Regulation dictates that you will be sent back to Denmark if you apply for asylum in other countries in Europe, if you have applied for asylum in Denmark first. The problem of people not leaving Denmark is thus due not only to the decision of individuals, but to a large extent to the rigid system, which puts people in unsolvable circumstances and prevents them from finding other solutions.

“If they do not want me here, why don’t they let me try in another country?”

- Laurent, rejected 8 years ago, returned to Denmark from three different countries

Residence based on family, work or studies

As a rejected asylum seeker or one who has illegally entered the country, there are, in some other countries, different possibilities for obtaining legal residence over time, e.g. if you marry a citizen of the country, have children, learn the language or get an employment contract. Some countries have even given some kind of amnesty for larger groups of people at regular intervals.

In Denmark, you can’t even submit an application for family reunification if you have been rejected for asylum. You must travel back to your home country and apply via a Danish embassy, even if you have a child together with a legal resident of Denmark. However, you can apply for family reunification under the EU rules without having legal residence (if you move to another EU country and then return to Denmark), but this requires a valid passport, which few rejected asylum seekers have. Getting married is also almost impossible when you don’t have a valid passport or legal residence.

Residence permits based on work or study must also be applied for from the home country or while one is in Denmark with legal residence – except for via the new scheme where after a revocation of asylum one may in some cases get a work permit, if one has had a full time job for at least 2 years. As an asylum seeker you can also apply for a work permit via ‘The Positive List’ for highly educated employees, although not when a departure time has been set. There are, incidentally, very high fees for applying for work permits, and the permits will apply only as long as one is still working.

There is no logical reason to impose obstacles to filing applications for other forms of residence after asylum cases are rejected. This practice threatens the right to family life, and prevents some people from obtaining legal residence rather than being stuck in a deportation centre. Some of those who have been here for many years have found romantic partners, have had children and/or received job offers. Thus, they have the grounds for obtaining legal residence and no longer being an expense to the state. Even if a person depends on social benefits, the cost is only about a third of the amount it costs to house them in a deportation centre.

Residence on the basis of humanitarian concerns

When an asylum claim is rejected, the authorities deal exclusively with the need for protection, based on the relevant conventions. Humanitarian considerations and connection to family in Denmark are not taken into account at all in the procedure. Nor does the process consider whether the individual can actually travel home if their claim is rejected. This is not the case in Sweden, where they also look at other aspects of the case under the asylum procedure.

It is possible to apply for residency based on other grounds, and such an application can in some cases grant the applicant permission to stay in the country while the case is processed (suspensive effect). But with an exit deadline of 7 days after the rejection, it can be extremely difficult to prepare such an application, which requires the help of an experienced legal adviser.

In general it has become harder and harder to obtain the other forms of permission which rejected asylum seekers can apply for, even though the text in the legal sections has not changed. This is due to a political desire for a more restrictive practice, ie. the granting of as few permits as possible.

If an asylum seeker is not considered to be entitled to protection under the asylum rules, a residence permit can be granted for humanitarian reasons in accordance with § 9b of the Aliens Act. This act was adopted in 1985 and contained a number of very broad criteria, including subjective fear, families with small children from countries at war, consequences of torture, suicide risk, aggravation of handicaps and prolonged stays.

- **Humanitarian stay**

§ 9 b. Upon application, a residence permit may be granted to a foreigner outside of § 7, sections 1 and 2 if the circumstances are such that important considerations of a humanitarian nature are present and contribute to the necessity of the application.

Section 2. Applications for residence under section 1 may only be submitted by foreigners that are physically present in this country, and are registered as asylum seekers under § 48e, section 2 (...)

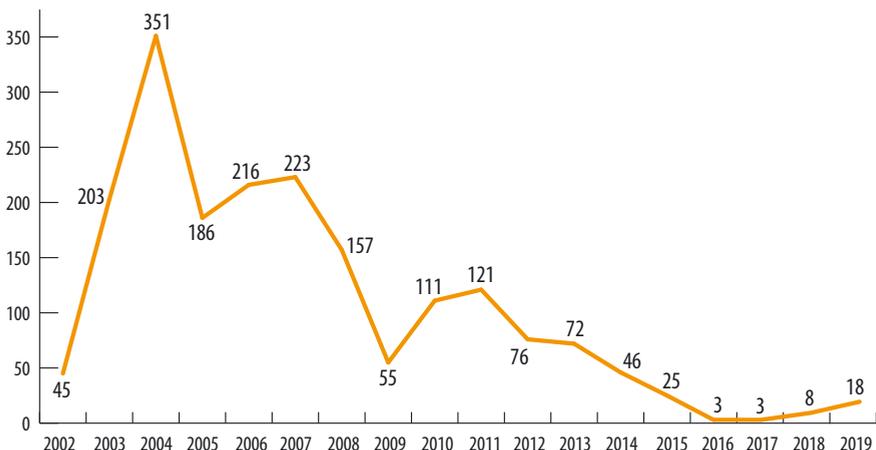
Section 3. A health-related residence permit pursuant to section 1 is conditional on the foreigner providing the necessary documentation for his health conditions.

Through the years the practice has been curtailed, mostly by guidelines from the ministry, becoming extremely restrictive. There are now very few people who receive this residence permission every year, and it is given only to people with life-threatening sickness that can't be treated in their home countries. See the case of Reza, page 109.

For example, in 2004 humanitarian residence permits were granted to 351 people, in a year where there were 3,500 asylum applications. In 2015, only 25 people were granted residence on humanitarian grounds, despite the fact that that year saw the highest number of asylum applications ever, of 21,000; in the following years the number dropped to 3 per year. Neither is the small increase that occurred in 2017-19 an indication of greater leniency.

My review of 80 cases in the period 2011-13 showed that the average residence time in Denmark was 858 days after a final refusal. A large part of the sickness and other problems that resulted in grants of humanitarian stay were a consequence of the long periods of uncertainty to which applicants were subjected.

HUMANITARIAN RESIDENCE PERMITS GRANTED 2002-2019



Since 2019, the permits have not been published in brief anonymized formats, such as was previous practice. Permission is now required to access documents to determine on which basis humanitarian residence is granted.

It is the Ministry of Immigration and Integration that processes applications, which are typically only granted for 1 to 2 years at a time. Applicants must themselves submit documentation of diagnoses and required treatments. Case processing times are very long – typically 1-2 years – also for applications requesting extensions of humanitarian residence. If health conditions improve, the residence permits are terminated.

A judgement of the European Court of Human Rights from December 2016 (Paposhvili vs. Belgium) went in a completely different and more humanistic direction than that of the court's previous practice, but Støjberg's ministry unfortunately interpreted the verdict to claim that there was no grounds to change practice in Denmark. Many lawyers, however, had a different interpretation of the judgement. The minister was forced to amend the terms dictating who had the right to apply, but not the criteria for decision.

In 2013, I published a report on humanitarian stay, which remains the only review of the subject that exists. It is called "The Character of Exception" and can be downloaded or ordered via refugeeswelcome.dk/rapporter (MM).

• Obstacles to deportation

§ 9 c (2) Upon application, a residence permit may be granted to a foreigner who has been refused an application for a residence permit under § 7, if

- 1) deportation of the foreigner, pursuant to § 30, has not been possible for at least 18 months,
- 2) the foreigner has cooperated in the return efforts for the last 18 months, and
- 3) there is no realistic prospect of deportation for the time being ("udsigtsløs").

§ 9 c (2) of the Aliens Act contains the possibility of obtaining a residence permit if the deportation of a rejected asylum seeker is impossible. However, this presupposes that the rejected asylum seeker has cooperated with the process actively, and that the authorities have given up their deportation efforts. In practice, the government's interpretation of those two conditions has resulted in nobody being granted residence due to obstacles to deportation for years.

There may be doubts about the individual's identity, and often for this reason authorities will refuse to recognize the agreement of participation. There can be great disagreement between the asylum seeker and the authorities (formerly the police, now the Return Agency) about whether the individual has really done her best to obtain documents from her home country or representation. Finally, there are many examples of the police still not considering the deportation to be hopeless ("udsigtsløs") after many years of futile efforts. As of December 1st, 2020 there were 42 people in the exit position with a residence time of over 10 years; the "oldest" case is 27 years old (LL).

The paragraph does not take sufficient account of the particular situations in which a person must be considered de facto stateless, nor can it in itself lead to a positive decision in the asylum case. If there is not really a country to negotiate with, the case should be handled differently.

Since 2015, the number of special residence permits for unaccompanied minors (via the Aliens Act § 9 c (3.2)), stay due to obstacles to deportation (§ 9 c (2)) and those given for “extraordinary grounds” (§ 9 c (1)) were merged in the statistics as “other reasons”, which makes it difficult to discern how they are applied. See graphs on the following page.

“We had this police officer who was just so crazy, she took it personally. She once said to me: “you should not dream of getting a residence permit in Denmark as long as I sit in this office.” She said this quite sincerely. So I said, “okay, but you should not dream that I will leave Denmark without my family.” I always quarrelled with her, so every time I had to have an assessment from the police, she always said that it was possible to send us out and that our family was not participating, that we had not handed in the proper documentation and so on.”

- Ibrahim, Palestine: rejected for 12 years, eventually granted residence

In 2011, I published a report on obstacles to deportation, and here ten years later, the situation has unfortunately not changed much. It is called “Asylum Camp Limbo” and can be downloaded or ordered via refugeeswelcome.dk/rapporter (M). Read more in Chapter 5 on problems with deportations, page 77.

• **Special grounds, including the best interests of the child**

§ 9 c, (1) Upon application, a residence permit may be granted to an alien if extraordinary grounds, including the consideration of family unity and, if the foreigner is under 18 years of age, consideration for the best interests of the child, supports it. Unless there are special reasons, including consideration for the unity of the family and, if the alien is under 18 years of age, consideration for the best interests of the child; a residence permit is conditional according to the first sentence as a consequence of a family connection to a resident.

The provision is used almost exclusively to provide family reunification in cases where the general requirements cannot be met but international conventions oblige Denmark to ensure that the family can stay together.

In 2014, the addition of ‘the best interests of the child’ was inserted, as the Aliens Act up until then included no consideration of the Convention on the Rights of the Child. At the same time, a new practice was introduced for families with children who had a humanitarian stay for a period but were refused extensions. These cases are referred to the Danish Immigration Service with a view to an assessment considering the child's interests, where one looks at whether the child's connection to Denmark may be strong

enough to grant a residence permit. So far, however, there are only a few cases where this has been successful. One of them concerned the El-Abed family, see page 82.

“I think we should consider the best interest of the child more, and in general create better opportunities for people in the exit position to leave the deportation centres in other ways than just through deportation to their homelands. Otherwise the situation becomes unresolvable, expensive and tragic.”

- Katrine Sypli Kohl, researcher, VIVE

• Unaccompanied minors without a network

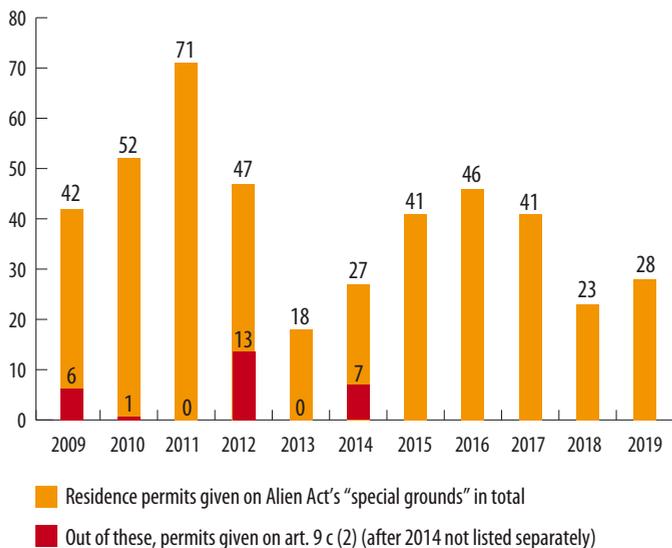
§ 9 c, para. 3, no. 2: An unaccompanied alien under the age of 18 who has been refused an application for a residence permit under section 7 can be granted residence, if there is reason to believe that the alien upon a return to the country of origin or the country of previous residence will be without a family network or without the possibility of staying at a reception-and-care centre and thus will be put in a real emergency. The residence permit can not be extended beyond the alien's turning 18 years of age.

An unaccompanied minor (UMI) is a child who travels alone into Denmark, without parents or other guardians, and applies for asylum. They go through largely the same procedure as adults, but if they are denied, they have an additional option under the law to stay, if they have no family to be sent back to.

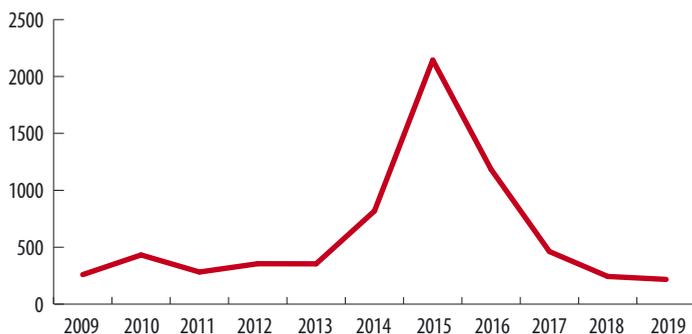
The procedure only starts if the child has been refused after completing the normal asylum procedure. As the graph on the next page shows, it is used very restrictively, and the number of cases it is used in has been declining since 2011. This is striking considering that fewer of these special permits have been given during a period when a greater number of unaccompanied minors arrived. It may be explained by the fact that in the period 2014-2016, many came from Syria and Eritrea, and typically received asylum, whereas the majority before then came from Afghanistan, and typically were refused asylum.

It is reprehensible that the few who obtain this special residence permit will lose it again when they turn 18 – even if they have gone to school, learned Danish and behaved perfectly, the stay will be too short to apply for permanent residence or to get residence on the basis of attachment to Denmark. See the case of Shakib on page 141, which illustrates the unreasonably hard experience these youths go through – only to be deported back to one of the most dangerous countries in the world.

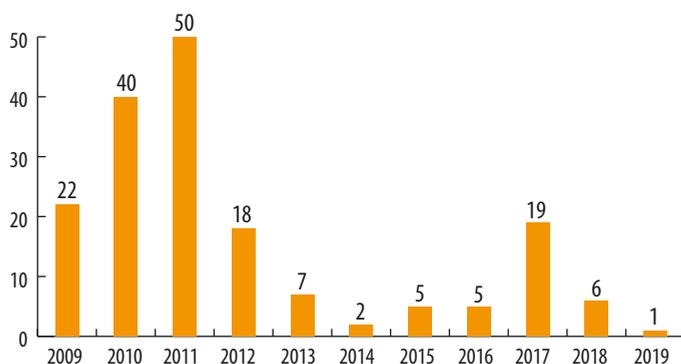
RESIDENCE PERMITS ON SPECIAL GROUNDS 2009-2019



NUMBER OF UNACCOMPANIED ASYLUM SEEKERS 2009-2019



RESIDENCE PERMITS FOR UNACCOMPANIED MINORS WITHOUT A NETWORK 2009-2019



ESTELLA AND THIERRY, DR CONGO

Estella came to Denmark in 2010 with her 2-year-old son Thierry. She is originally from the DR Congo, but gave birth to her son in a refugee camp in Uganda after her husband died, and her two other sons disappeared in the war in the Congo. Estella and Thierry ended up spending 10 years of their lives in 7 different Danish asylum centres via 12 separate relocations before they were allowed to stay. Estella was once a strong and vibrant woman, but through those many years of insecurity in the asylum centres, her parenting ability was greatly impaired. She developed depression, became apathetic and sorrowful and sometimes lost patience with her son.

Thierry developed anxiety, wet his pants and had difficulty sleeping during the night after two experiences in 2011 and 2012, where Thierry was imprisoned as a 3 and 4 year old, with his mother in Ellebæk. The first time they were put on a plane with four officers to Congo, but the Congolese police did not accept them. Possibly because Estella was desperate and resisted, or because Thierry had no immigration papers. Consequently, the Danish police were obliged to bring them back to Denmark. On the second try, the police had to give up in advance and release them from prison after a day.

Thierry was sent to a special school because he had a hard time dealing with his anxiety and concentrating. "I'm scared of spiders and that my mother should die. I'm scared of the police. I'm afraid they'll see me and send me to Africa, where I'll die. It's very dangerous there," he told Politiken in 2017. By then he had started sleeping with a knife under his pillow in case the police should come.

In 2014, Estella signed a contract to participate in her return, and the IOM (International Organisation for Migration) became involved to assist with the planned departure, but did not succeed. During a meeting with the police in 2018 a policeman refused to let her sign the agreement. He judged that she had not cooperated in the process, since she herself had sought out the Congolese consul, who did not think she was from the Congo. Estella has maintained that she was.

During this process, the small family has several times applied for humanitarian residence, residence for considerations of the best interest of the child, and residence due to obstacles to deportation. A pro bono lawyer had the asylum case reopened in 2020, and in the end asylum was granted due to Thierry's risk of ending up as a child soldier in the Congo.

The family should have been granted residence via obstacles to deportation immediately after their failed asylum application, and in addition, they had applied both for humanitarian residence and residence in consideration of the best interests of the child. The living conditions they were subjected to destroyed Estellas strong capacity to parent and care for her son, and an otherwise well-functioning little boy ended up with anxiety and the need to be in a special school. The case also illustrates the need for the reopening of old asylum cases.

Avnstrup return and deportation centre



Sjælsmark deportation centre

3. CONDITIONS AND MOTIVATIONAL MEASURES

LIVING CONDITIONS AND RIGHTS

Over the years, things have changed a lot in this area. Shifting operators have been responsible for managing centres and tasks, centres have opened and closed and the centres functions as well as the rules and duties of the residents have changed. But the focus has always been on making the lives of those in the asylum centres difficult without directly violating human rights standards – a difficult balance.

A rejected asylum seeker lives with very limited rights in almost all areas. This includes severely restricted freedom of movement, finances and access to income; as well as very limited rights to education, privacy, family life and health care. They must also live with constant anxiety – in the short term about being picked up by the police in the middle of the night, and in the long term about how the future will unfold.

Healthcare

As an asylum seeker, you do not have full access to the healthcare system, and you do not have a health insurance card. This is the same with rejected asylum seekers. In the asylum centres there are small health clinics where you can speak with a nurse and get access to a doctor by appointment. Access to healthcare is limited to urgent treatment and pain relief – i.e. no one has the right to preventative or planned treatment, and an application must be approved by the Immigration Service to pay for treatments such as surgeries or psychiatric visits. Paradoxically, one has no right to the thorough investigation and declaration required to receive humanitarian stay.

Necessary medicine is provided free of charge. Children have full access to health care, but still only through the clinics at the asylum centres. Dental visits are also limited to pain relief and necessary maintenance, and you are not entitled to, for example, have a denture, bridge or treatment for periodontitis made.

The health clinics in the centres do not always take the residents seriously when they complain of pain or health problems. For example, cancer has not always been diagnosed in time, despite symptoms. Many asylum seekers have experienced going to the clinic with a serious problem and receiving an aspirin and being told to drink a lot of water; this is almost a standing joke.

Benefits and work

The Danish Immigration Service covers all expenses for accommodation, necessary transport, education and health services for asylum seekers. Rejected asylum seekers may not work, and most do not receive any benefits. The amount of benefits one may receive varies according to their legal status (phase), whether they live in centres where they can be self-catering, whether they have children and whether they are deemed to be cooperating in their return process.

A single person in phase 3 (rejected), who is judged not to cooperate on their return and therefore lives at Kærshovedgård, will usually receive no monetary support. A family in phase 3 with three children living at the Avnstrup centre can order food for a total of approximately 2,000 DKK every 14 days, but receives no other financial support. Some individuals can receive special, but small grants. A single person in phase 1 (newcomer), who lives in Sandholm where there is a canteen will receive 127 DKK every 14 days. In phase 2, you live in a residential centre and receive money to cook your own food. Among asylum seekers, all benefits are colloquially called “pocket money,” and you have to show up in person to receive it, handed out in cash.

A package of clothing is handed out every six months, and you can often get a TV or a bicycle donated by neighbours and volunteers. For expenses such as hairdressers, telephones and transport people must try to find friends or family to assist them, and some are forced to find undeclared work. The lack of services almost obliges people into crime – for example one might have to travel regularly without a valid ticket. Transport to school, internships or meetings with lawyers will be paid for, however, by the immigration authorities. People are given a package with supplies for personal hygiene every month, but are not allowed to choose what they receive.

School and education

Children in asylum centres have the right to education equal to Danish children, but in reality they do not receive it. They start at the Red Cross's special school for asylum seeking children, which many children are frustrated with, as they would rather attend a Danish primary school. It is the Red Cross that assesses whether they are ready for this, and negotiates with the local municipality to find space for the pupil. Special schools are possible, but relocation and transportation often prove a problem. In the case of forced relocation, children will have to leave the local schools they are attending and start over at the Red Cross's school. Some children lose many months of schooling due to this. Additionally, all children hate the long transport times in special buses from the centre to the asylum school.

When a child reaches the age of 16, there is no longer any offer of education for them as rejected asylum seekers. They are not entitled to secondary education or any further education, which creates a huge problem for their futures.

Rejected asylum seeker adults do not have access to any courses other than the very limited options in the new repatriation law, if cooperating on their return. Until 2012 the Red Cross had a very well-functioning school for adults in Frederiksberg, where residents of the centres in Zealand could go once or twice a week. The school was closed, however, for lack of funding.

Accommodation

As an asylum seeker, you cannot choose where you want to live. You have to live in an asylum centre, and it is the Danish Immigration Service that decides which one. You can be moved with short notice from one centre to another, and most end up staying at many different centres – some children have lived in 6-7 different centres. A few may receive permission for private accommodation with their families.

During the processing of asylum cases (in phase 2), applicants typically have been housed in residential centres. These are all in Jutland now, and run either by the Red Cross or local municipalities under contract with the Danish Immigration Service. During this period, you receive small financial support, and usually money to cook your own food. Internships and courses are offered, but to a very limited extent. The residences are open, and though you are obliged to live in these centres, there is no electronic registration or obligation to check in during the asylum phase. However, if you are away for several days, your room will be emptied and you will be registered as “absent”. Your asylum case will then be closed by the Danish Immigration Service, but may be resumed if you return to the residence.

Deportation centres

If you are refused asylum (in the final instance) and do not cooperate in your departure, you will be moved to a deportation centre. The first deportation centre was established in 2015. Before this, rejected applicants would be housed in the same centres as those still in phases 1 and 2 of the process.

In the deportation centres, you have a duty to reside in the centre and you are obligated to register three times a week in a special place in the centre within a certain period of time. Your location is registered via electronic keys in the so-called Saltolog system, but not yet in Avnstrup, where you have to report every morning and every evening. If you want to be away from the centre for more than a day, you must apply for permission in good time with the Danish Return Agency and state the name, address and civil registration number of the person you are visiting. Permission is only granted for a two-night leave every 14 days. You can also apply for special dispensation for your duty to report, if you are unable to check in due to serious illness or disability. Illness must be documented by a medical certificate.

The Return Agency's decision on the imposition of a residency requirement cannot be appealed, but a report of a breach of the duty to report can be appealed to the Immigration Appeals Board.

If the residence and reporting obligation is violated several times, a criminal case will be brought, which can result in up to 4 months of prison for repeated violations. See the case of Sara on page 48. However, the Saltolog-system has proven to be very flawed, and consequently a number of residents have been charged by the police for being gone from the centres, even if they had in fact been there all along.

Kærshovedgård is located 13 km from Ikast in central Jutland. It has been a deportation centre since 2016, and is used for individuals and couples without children (women and men are housed in different sections). In addition to rejected asylum seekers, it also houses those expelled via legal decision and those on Tolerated Stay (read more about these definitions on pages 13-15) as well as people who are considered to pose a threat to the security of the state (e.g. convicted terrorists and so-called foreign combatants). It is extremely isolated, located in the middle of a forest with no access to public transport. Many bike to the nearest town, Bording, which is 7 km away. Most residents receive no benefits at all, and those on Tolerated Stay only a very small amount. None are allowed to work. Transportation is therefore a major problem; a round-trip ticket to Copenhagen costs approximately 800 DKK.

The place was built in 1943 as an open prison, but was closed because it was “outdated”. When it was a prison, the inmates could cook for themselves, and there were billiard tables and TVs in common areas. Back then, there were no fences and access controls like there are now. Today, common rooms and kitchens have been cleared of furniture, and you get food in the canteen three times a day. It is illegal to have kettles, toasters or coffee machines in the kitchens or rooms – they will be confiscated.

There are both new and old buildings, and between 1 and 6 people live in each room; most live 2 together. Bathrooms and toilets are shared and located off the hallways. In the special care department for physically and mentally ill residents and in the women’s department, there are single rooms, but they are extremely small. There is a wood workshop, but no opportunity for teaching or internships.

There is room for 300 people, and today there are approximately 220 men and around 35 women, from 18 to 75 years of age. Approximately 12 of the residents have smaller children who have residence permits and live with their other parent. The women have a hard time, among other things, having to pick up their food in the canteen, where they can get glances and comments from the many single men.

The centre is run by the Danish Prison and Probation Service, but the Red Cross is responsible for the special care department. The police and the Return Agency have permanent offices in the centre.

“If I have to die, I prefer to die in Kærshovedgård instead of going to Iran where I’ll be hung publicly. I fled from them, you see – I ran away!”

- Said, rejected asylum seeker, lived in Kærshovedgård for 1 year

“Why do they mix us rejected asylum seekers with criminals? We have not done anything wrong and it hurts us badly to be grouped together with them. This is worse than a Danish prison. Some residents prefer jail, they smash something or stay away for a long time to get sentenced – it’s better, because there you can make money and save up. It’s pretty crazy that people want to go to jail!”

- Laurent, rejected asylum seeker, lived in Kærshovedgård for 2 years

Canteen, Kærshovedgård



Cafeteria på Kærshovedgård	
Breakfast	07:15 - 08:00
Lunch	12:15 - 13:00
Dinner	17:00 - 17:45



Common room (former kitchen), Kærshovedgård

Room for four residents, Kærshovedgård. The curtains are attempts to have a little privacy.



Single room, special care section, Kærshovedgård



Room for two residents, Sjælsmark

"I don't understand how they can be in it. And I really understand that they have clashes, they are all people in crisis. I often have to say, 'yes I understand you would like to live alone, but I can't give you a single room.' The Danish Immigration Service has decided that. They were only supposed to be here for 4-6 weeks. These are some tough conditions, not just for those who live here but also for the staff."

- Trained prison officer, employed at Kærshovedgård

"Here you become a criminal. You become an alcoholic. You become a junkie. Or you can go to another country. I can't go now, I'm too old."

- Felipe, expelled for criminality, 51, resident at Kærshovedgård

"There are many conflicts, almost every day. Things boil over easily. And some of the convicted criminals continue their activities here, not least the cannabis trade. It is a very diverse group, and one might say that the treatment they receive may not be so diverse.

You could say it's better to be in a real prison: there you have a single room, TV, can eat what you want, when you want, and you are offered a structured everyday life and you can work and make money.

The deportation centre was supposed to be a place you stayed only a few weeks until you left Denmark, but that's just not the case. We have sent four people home in the one year we have existed.

Now a deportation centre with 400 people has been established. But no one has been able to foresee the consequences and effects of this. There is no fact list. But those of us who are here every day, we can see the pressure just rising and rising. It will not get better... and there will be more residents. And this, it may not be a good solution. But it is the reality."

- Peter Sneftrup, head of Kærshovedgård 2016-2017. A few days after these statements in a TV program on DR, he was fired by the Danish Prison and Probation Service, and asked to clear his desk.

Sjælsmark is located in Hørsholm, a few kilometers from the asylum centre Sandholm. It is used today for both single people and couples without children, for applicants and those rejected via the Manifestly Unfounded procedure and the Dublin procedure. Between 2017 and 2020, it was populated by rejected families with children, who did not cooperate in the return process, but these have now been moved to Avnstrup.

The centre was originally built as a military barracks and it is still in the middle of a military training area, where one regularly sees tanks driving past and hears gunfire. Not so appropriate, when you consider that many asylum seekers have experienced real war and are traumatized. Transport and access to Copenhagen is relatively easy and does not cost much.

As in Kærshovedgård, the residents cannot cook for themselves and have to eat in the canteen, which only serves food three times a day for 45 min at a time. It is not permitted to have an electric kettle or a refrigerator in the room. There are small rooms for 1-2 people, and larger rooms, which are used for families. The Danish Prison and Probation Service runs the centre, and the Red Cross is in charge of the health clinic, care and activities. The Return Agency and the police have offices in the centre.

Avnstrup is located in Lejre Municipality, in the middle of a forest. It is a former sanatorium for tuberculosis patients, but has been an asylum centre for over 20 years. It consists of a main building with 4 floors and a number of low buildings and annexes. There is room for approx. 400 residents, and families have their own rooms but not their own bathrooms.

For many years it was used to house asylum seekers in various phases, but in 2018 it was designated “return centre” and used for rejected asylum seekers who cooperated on their return – and since the summer of 2020, it has taken over Sjælsmark’s function as a deportation centre for rejected families with children.

The centre is still run by the Red Cross, although it has also become a deportation centre. The Return Agency is present and administers the reporting obligations, but there is no electronic control and monitoring. In return, residents must report in every morning and evening of every day, which was not required at Sjælsmark.

The families with children were moved to Avnstrup to improve their living conditions, after massive criticism of life in Sjælsmark from grassroots organisations, NGOs and experts. One thing that was highlighted, was the ability to cook for themselves – but this promise turned out to be only partially delivered. It took a year before the new kitchens were established, and instead of being given money to buy groceries, residents can order them from a special catalog. The scheme is now working and the promised nursery has been established. The families have been granted a freer setting and a far more natural life than they had in Sjælsmark.

But public transport is difficult as there are only a few buses going into the surrounding stations. Along with the duty to report twice a day, many have therefore become even more isolated than they were in Sjælsmark.

“Does the system work then? Obviously not. When politicians made the decision to establish deportation centres, they thought it would take 2-3 weeks for a family to decide to travel home because they would realize that there was no future here. But the first family who moved to Sjælsmark in the summer of 2017 still lived there 3 years later, and has now just been moved to Avnstrup. So the original plan does not work... and to gather all these people who are in the same life situation in one place, just gives it a synergy effect: we are all in a bad place now.”

- Red Cross, interview in AdMiGov, Kalir et al. 2021 (B)

MOTIVATIONAL MEASURES FOR REJECTED ASYLUM SEEKERS

'Motivational measures' is a collective term for the frequently changing processes introduced from a political position that aims to make the everyday life of rejected asylum seekers so unpleasant and meaningless, that they will at some point give up their life in Denmark and return home voluntarily. After 38 years of these policies, both researchers and other actors agree that the measures do not work – however, they continue to be tightened to the present day.

Today, motivational measures consist of the following:

- relocation to a deportation centre
- expulsion order in combination with an entry ban
- duty to reside and to report presence (violations punishable by imprisonment)
- no monetary support
- risk of being imprisoned in Ellebæk prison for up to 18 months
- no access to practical work experience, courses, or activities.

Is it at all legal for a state to intentionally put people in a situation that makes them sick, undermines their dignity, and treats them as criminals, even if they have done nothing wrong? Yes – to a certain extent at least. Under international law, states have a wide range of powers when it comes to restricting access to their territory and subjecting people who stay in the country illegally to ill treatment. Pros and cons must be weighed in each individual case, and Denmark is increasingly not taking external criticism seriously.

Altogether, the series of restrictions on freedom of movement, privacy, self-determination, development, health, social contact, and financial independence constitute an extreme burden for a human being. Even for those who are not detained in Ellebæk but accommodated instead in the deportation centres, the experience of rejected asylum seekers is in some ways worse than a prison stay. To this we must add the mental strain of a constant fear of being sent back – and the fact that many of these individuals were traumatized when they first arrived and have received no treatment.

In 2009, the Danish Institute for Human Rights published a 175-page report on rejected asylum seekers, warning that the length of stay in deportation centres was increasing, that these long periods constituted a human rights issue, and that the motivational measures were disproportionate to the goal of getting more people to return voluntarily. In particular, the use of imprisonment was highlighted for criticism. The report contained many recommendations for improvements, including an upper time limit for how long one can remain a rejected asylum seeker. Since then, all the conditions examined have become even worse (D).

In 2018, a critical research report entitled "Stop Killing Us Slowly" was published by the Freedom of Movements Research Collective. It concluded that the deportation centres *de facto* constitute an indefinite deprivation of liberty and that the political

framework degrades people, as well as facilitating illegality and criminalization, without achieving the intended goal (E).

“The official purpose of the deportation centres was to get more rejected asylum seekers to leave Denmark faster. However, four years later it seems that it has simply pushed more people into an illegal life (...) I argue that the deportation centres are a technique of ‘de-registration’, which allows Denmark to ‘look away’ and refuse to take responsibility for those who cannot be sent back.”

- Annika Lindberg, researcher, University of Copenhagen

“It is the Danish Refugee Council’s experience that motivational measures do not work, no matter how severe they are. Several of these measures simply work to break people down. (...) There will probably always be some who have had enough of the many restrictions and therefore choose to leave, but it is DRC’s experience that these are very few. On the contrary, we find that the motivational measures have the opposite effect and contribute to apathy, reluctance, and becoming locked in place.”

- Eva Singer, head of DRC’s asylum department

Historical background

The first restrictions for rejected asylum seekers date back to **1983**, when a duty to report to the police was introduced. In **1997-8**, an addition was made whereby an applicant could lose their benefits if they did not cooperate on a return journey or would not provide sufficient information about their journey before arriving in Denmark.

This led to the first ‘food box scheme’ where food was provided via handouts of raw ingredients in a box every week. The scheme worked incredibly poorly – the boxes did not contain what people needed to cook, and most of the contents were thrown out or sold on. The scheme was abolished but has now been reintroduced in a new form for families with children in Avnstrup Centre. As part of the compulsory canteen setup in various centres, it has at times been forbidden to bring food out of the canteen if you would rather eat later, and you are, for example, not allowed to pick up food for others.

Since **2001**, imprisonment in Ellebæk has been used as a motivation measure – not just as a practical measure to ensure people’s presence for a planned deportation – but also to pressure them to think differently, both when it came to accepting support to leave and to obtaining documents or information from them.

After tremendous public pressure, where among other things over 90,000 handwritten signatures were collected, the Fogh government decided in **2008** to allow 60 families with children who had held a rejected status for more than a year to move out of the centres into independent housing. In **2013**, the Thorning Schmidt government allowed asylum seekers in phase 2 to work and find their own housing, but under very strict criteria. At the same time, however, it was decided to divide the centres into reception/temporary residence centres and the newly established deportation centres.

From **2016**, the Løkke government rolled back the improvements and brought the families with children back into the centres. Now they did not just have to live in a 'regular' asylum centre, but in Sjælsmark deportation centre. Canteens were introduced in several other centres, so self-catering was only an option in some places.

Putting the Danish Prison and Probation Service in charge of administering the deportation centres was an indirect and radical tightening of the motivational measures. This means, for example, that the staff in the deportation centres can check rooms unannounced, that you are not allowed to make tea or hot food in your room, and that you are only allowed to have a limited number of things in the room, with the rest to be stored in a locked container. The high fences with barbed wire both inside and outside the centres are also a mental strain for people who have not committed crimes.

Once again, there was significant public pressure, not least after a psychologist's report on children's health published by the Red Cross and a citizens' proposal with 50,000 signatures. The children came out of Sjælsmark in **2020**, delayed, however, by Covid-19. The solution was the old Avnstrup centre, where they came under the administration of the Red Cross instead of the Prison and Probation Service and got rid of the barbed wire but were instead greeted by a new version of the food box scheme instead of money to cook their own food. The duty to report was doubled to twice a day, and it thus became much harder to get away from the centre.

Duty to reside and report

The residency requirement is already present in a milder form during the asylum procedure but is tightened if you are refused asylum and do not cooperate. The duty to report is determined individually, but it is basically three times a week at a deportation centre. Residents with Tolerated Stay, criminal deportees, and 'foreign fighters' can also have a 'duty to notify' imposed, which means they must inform the authorities if they stay outside the centre at night. Read more about Tolerated Stay on page 83.

If you, as a rejected asylum seeker, repeatedly violate the duty to report, you can be sentenced to up to 4 months in prison. Foreigners on Tolerated Stay or with a judgment of expulsion, and foreign fighters, can be punished with imprisonment for up to 2 years for not complying with their residence, reporting, and notification obligations.

For persons on Tolerated Stay, the courts have ruled that after 4 years, the requirement to reside in a deportation centre will in principle be disproportionate. No court has ruled on whether similar requirements for rejected asylum seekers will at some point become disproportionate. A rejected asylum seeker can live in a deportation centre for their entire life. Rejected asylum seeking children who were born in Denmark and have spent their entire 10 or 18-year life on Danish soil are still considered to have "no" attachment to Denmark and are still required to live in a centre.

In practice, the duty to reside in a centre and to report, combined with the location of the centres and the lack of a right to income means that rejected asylum seekers are in prison – without having committed any crime.

Imprisonment in Ellebæk

Ellebæk is dubbed an “institution for foreigners deprived of their liberty”. It is actually a prison, and probably the most unpleasant of all Denmark's prisons – but it is not for criminals. Some asylum seekers begin their stay there if they arrive without papers. Most inmates have been refused asylum and have stated that they will not cooperate with their own deportation – imprisonment is part of the “motivational measures” used when a person does not cooperate to secure their own departure.

Ellebæk is run by the Danish Prison and Probation Service and has been in use since 2001. It has often been overcrowded and has just been expanded by a further 56 places, so the capacity is now at 192 inmates with 58 employees. The cells are very small, with 2 people sharing. The old buildings are in a miserable condition. The inmates themselves help to prepare the food which is served 3 times a day. You can only receive visits according to the same rules used in a prison: the visitor must first obtain a criminal record check and then book an appointment in advance. The inmate must ask for the visit and must have the full name and address of the visitor. There is very limited access to medical care and interpreters, poor hygiene, little space or access to the outdoors, and it is very difficult to communicate with people outside.

You are punished with 15 days of solitary confinement in a cell for being caught with a mobile phone – despite a national court ruling that the inmates have the right to have their phone with them. It remains against the prison rules, however. The punishment cell was used 41 times in 2019, including 18 times for 15 days or more.

Rejected asylum seekers can be held in Ellebæk for up to 18 months, and in several separate rounds, for example if they have disappeared and then been caught again. The average length of stay in Ellebæk was 49 days in 2020. As of 1st January 2020, 15 people had stayed in Ellebæk for between 3 and 6 months, 9 people for more than 6 months, one of these for over a year (F). Police say they very rarely use imprisonment as a motivational measure and do not believe in the effect of it (B), but nevertheless, a large proportion of the rejected asylum seekers one talks to have experienced being imprisoned after rejection for no reason.

The mentally ill and torture survivors should not be imprisoned in Ellebæk, but there is no effective screening, so it occurs anyway. Amnesty's Danish medical group published a report in 2013 which examined several of the inmates and found a high degree of trauma and a worrying state of health (G). Activists and NGOs have for many years tried to draw attention to the dire conditions in Ellebæk. A voluntary group called Ellebæk Contact Network regularly registers the objectionable and illegal incidents and tries to make a visitor program for the inmates (ellebaekkontaktnetvaerk.dk).



Ellebæk



In January 2020, the The European Committee for the Prevention of Torture issued a scathing critique of the two prisons in which asylum seekers are imprisoned without committing crimes: Ellebæk and Nykøbing Falster (H). The criticism was partly focused on the physical conditions, which were described as “some of the worst the committee had seen in Europe” and “unsuitable for humans” but it also addressed *the reasons* why the prisoners were deprived of their liberty:

“Our findings are very serious. First, the physical setting is in an incredibly poor condition, but we also believe it is completely unacceptable to place these people in prison-like conditions like those we have seen. They are not criminals, but they are being placed in a centre that is much worse than a prison. We were very surprised to see that the inmates were punished so severely for having a mobile phone. It emphasises once again that the rules are prison rules, which is completely unacceptable. These people need to have access to their phones, where they typically have all the numbers for their families and friends saved. It is absolutely essential.”

- Hans Wolff, The European Committee for the Prevention of Torture

Minister of Justice Nick Hækkerup responded to the criticism from the Council of Europe: “These institutions are not a nice place to be, and they should not be a nice place to be, because they should give people a push in the back to leave Denmark. After thorough case processing they have received a no, and this then helps motivate them to leave the country.”

Article 5 of the European Convention on Human Rights lists when a person may be detained. Here it is mentioned: “to prevent him from unlawfully entering the country or a person against whom deportation or extradition proceedings are in progress.” However, deprivation of liberty should always be a last resort when other less intrusive things have been tried in vain, and according to the case law of the European Court of Human Rights, it should only happen when a deportation is possible. In Denmark, for example, rejected Iranians are imprisoned for many months, even though they can only return to Iran voluntarily, and at some point, they must be released again. It is done solely to put psychological pressure on them, and to make other rejected asylum seekers from Iran nervous.

Using imprisonment as “motivation” must be regarded as a form of political imprisonment – it does not take place based on a conviction in which the person has committed a crime, but with a view to changing a person's opinion and behaviour, as a form of re-education. According to the Parliamentary Assembly of the Council of Europe (PACE), one of the definitions of a political prisoner is: *“if the detention has been imposed for purely political reasons without connection to any offense”*.

In March 2020, the Council of Europe Commissioner for Human Rights called for the release of all asylum seekers currently detained, as the Covid-19 pandemic made both Dublin transfers and repatriations impossible. Denmark did not do so, so despite extre-

mely low entry numbers since the beginning of the pandemic, Ellebæk has been full, as the courts to a large extent did not take the initiative to release the inmates because of the Covid-19 situation.

There is no reason at all to have a place like Ellebæk. If you followed the human rights recommendations to detain people only when a deportation is imminent, you could set up a smaller, locked section in one of the asylum centres.

Food preparation

Deciding what to eat and being allowed to cook for oneself and one's children is a very basic and important thing in a person's life. Precisely for this reason, it has since 1998 been used to put pressure on asylum seekers in various ways. One minister after another has lamented how expensive it is to accommodate asylum seekers but has nonetheless opted for schemes that were far more expensive than just letting asylum centre residents shop for and prepare their own food. Canteen operations and food box schemes are much more expensive per person and involve a large amount of food waste. You must not even have a toaster, an electric kettle, or a microwave in your room or in the common areas at Sjælsmark and Kærshovedgård. Thinly justified by an argument about fire risks, it is solely about reducing the residents' quality of life.

Residents of asylum centres and deportation centres have repeatedly gone on hunger strike and refused to eat the food served. It has been perceived by many as spoiled, but it is a complete misunderstanding – it is about self-determination and about culture, and many of the parents become desperate when their children will not eat the canteen food or get hungry at other times than the 3 x 45-minute slots where food is served. As mentioned earlier, criminals serving a sentence have better opportunities to decide on their food than rejected asylum seekers.

PROBLEMS SPECIFIC TO CHILDREN

Attachment to Denmark

Legally, children are almost considered their parents' luggage. They are only very rarely involved in the asylum case itself. Even if a child is born in Denmark, this does not open any possibilities for residence. If the child's parents are stateless, the child can obtain Danish citizenship, but since this does not give the parents the right to reside, it is of little use.

Conversely, unaccompanied minors have their own asylum cases and are largely treated as adults. In practice, it is not easier for a 16-year-old to get asylum than for an adult. The only difference is that the minor has a contact person from the Red Cross, and that the legislation contains some special options (which are rarely used) to obtain residence if there are no remaining family members in the home country (see the section on other types of residencies on page 20).

For a child, of course, there are completely different issues at stake when it comes to living for many years as a rejected asylum seeker. Many of the children do not know a country other than Denmark and barely speak their parents' languages. Nevertheless, the Danish practice is that whether a child was born in Denmark and has spent their entire life here has no legal significance and does not lead to a residence permit. There are many examples of children who have grown up in the asylum system. Life in an asylum centre is very different from a normal child's life, and the older they get, the more will the child realize this difference, and the greater the fear of being picked up one night and put on a plane to an unknown, scary place.

The European Court of Human Rights has in some cases assessed illegal residence as affiliation to a country. For example, in *Jeunesse vs the Netherlands* from 2013, the court emphasised that the Dutch authorities themselves had allowed the prolonged illegal stay during which family life and attachment to the country had been achieved, and it was therefore decided that the Netherlands should give a 16-year-old girl permission to stay.

Part of the so-called Paradigm Shift in 2019 was to limit the importance of refugee children's legal residence when assessing their attachment to Denmark. Anything under 8 years of legal residence now does not count as attachment for a child. A dubious barrier for which no case can be found before the European Court of Human Rights, as the court has previously only ruled on the expulsion of criminals.

Children's mental health

Children who have otherwise been well-functioning develop symptoms and disorders after a certain period in the asylum system. It often starts with sleep problems, refusal to eat, difficulty concentrating, and can develop into aggressive or introverted behaviour, self-imposed isolation, nightmares, anxiety attacks, and suicidal thoughts. Smaller children often do better, but with age comes the understanding that you are not allowed to be in the country. In some cases, it can turn into chronic developmental disorders.

Other problems arise with teenagers because at that age you develop your personality and consider your own future – what am I good at? What do I want to do with my life? For a teenager in a deportation centre, there is no future, nothing to plan for.

Many sad children's destinies have been described in the media over time. The Politiken journalist Olav Hergel won the Cavling Prize for a series in 2007 about the children from Kosovo in Kongelunden Asylum Centre, and he has written about many other children since then. Many groups and campaigns have tried over the years to call out politicians and get the children out of the centres. A small group of women behind the Amnesty Now initiative collected 90,000 signatures in the old-fashioned way – with a ballpoint pen – in 2007. The group Grandparents for Asylum demonstrated every Sunday for 10 years in front of Sandholm Reception Centre, come rain or shine.

In 2009 I, together with Grandparents for Asylum, collected 20 stories for the book *Rejected - Asylum Seekers in Denmark* which describe the effects of the long stays (I). Law professor Eva Smith's small group Asylbørnene Ud Nu collected 50,000 signatures and presented all the academic studies of the children on a website in 2010. The book *Asylum Seeking Children in Denmark - a Childhood in a State of Emergency*, edited by Kathrine Vitus and Signe Smith Nielsen, gave a scientific overview of the situation in 2011 (J).

All this had a significant effect and most rejected asylum seeking families with children slowly came out of the centres between 2008 and 2012. Nevertheless, by 2016 they were once again being moved back into the even worse conditions at Sjælsmark Deportation Centre. Some of the children have been all the way around this system: Sandholm, Avnstrup, Kongelunden, their own house, Sjælsmark, and now back in Avnstrup.

In 2019, psychologists documented in a Red Cross report (K) that the children in Sjælsmark suffered unusually high levels of stress, anxiety and developmental disorders as a result of the living conditions in the centre and their precarious situation. 61% of the children examined were likely to meet the criteria for a psychiatric diagnosis, and half of the older children had symptoms of PTSD. Hørsholm Municipality, which houses the centre, received many reports of concern for the children, and Save the Children's director was shaken after a visit. Many children have been placed outside their 'home' by municipalities because their parents are not able to take care of them.

A new public protest group, the People's Movement for Asylum Seeking Children's Future, arose through the now closed Trampoline House with the active participation of the families involved. A citizens' proposal was made, which not only recommended taking the children out of Sjælsmark, but also that they should be granted a residence permit after a certain period of living as rejected asylum seekers – out of consideration for the child's best interests. The proposal was one of the few citizen proposals that year that managed to collect the required 50,000 signatures.

Public pressure eventually got the children out of Sjælsmark – but not into society. Today, the families live in Avnstrup, which has become a deportation centre but is run by the Red Cross instead of the Danish Prison and Probation Service. The atmosphere is much better and far from prison-like, and a crèche has opened. The parents can now cook for the children themselves; the rooms are nice and tidy; the outdoor area is pleasant. However, Avnstrup is isolated without many public transport options. Schooling has been most negatively impacted by the relocation – many had to change schools once again, some even had to go back to the special asylum centre school. On top of this, the basic problem of not having a residence permit remains. Two of the children who have been in the system for approximately 10 years received a residence permit after being featured on Politiken's front page several times. This has occurred several times: great attention on individual cases leads to the case going through eventually, but without any changes in criteria or legislation.

“For many rejected asylum seeking families with children, voluntary repatriation is not an option. The children have often stayed so long in Danish asylum and departure centres that their primary cultural connection is to Denmark, and many of the children were also born here. For the parents of these children, repatriation is impossible, as they will never voluntarily agree to return to a conflict zone or to a situation of poverty where they cannot provide the children with a safe upbringing and an education.”

- Tone Olaf Nielsen, co-founder and co-director of Trampoline House for 10 years

Human rights for children

Children have special rights defined in the UN Convention on the Rights of the Child. Because of this, asylum seeking children have for example full access to the education and health systems, something adult asylum seekers do not have. The most important article in the UN Convention on the Rights of the Child says that the state must always put the best interests of the child first in any decision that concerns the child. However, the Danish legal system places full responsibility for the children on the parents – it is their fault that the children are stuck in the asylum system. If you ask the parents, however, they say that it is because of the children that they do not dare to travel back.

The Danish state is not always on the child's side if you look at these 3 situations:

- A child born in Denmark to a rejected asylum seeker, where they are badly affected by the state's asylum system: *the child is the parent's responsibility.*
- A child born in Denmark to a Danish citizen who is trapped in the AI-Hol camp, where the child is badly affected by conditions in the camp: *the child is the parent's responsibility.*
- A child born in Denmark to a mother where the child is badly affected by violence and neglect from the mother: *the child is the responsibility of the Danish state.*

It is very difficult to see how it can be in the best interest of a 10-year-old to be sent back to one of the most troubled parts of DR Congo with his mother when he was born in a refugee camp in Uganda and has spent 8 years in Danish asylum centres. The child does not speak the local languages of DR Congo, where only 35% of 12-year-olds go to school. But we have the word of the Immigration Appeals Board that this is in the child's best interest. The Danish state's assessment is that his mother has been refused asylum, their stay has been illegal, the boy has a mother, and neither have any life-threatening health problems (see the case of Estella and Thierry, page 26).

The Red Cross report showed that the children in Sjælsmark had twice as high a risk of mental illness as newly arrived refugee children – and many of the new arrivals come directly from a dangerous journey, staying in horrible conditions along the way, from a homeland plagued by war and aggression. The deterioration in the children was more marked after they had moved to Sjælsmark from other centres or homes outside the centres. The deliberate policy of providing bad conditions in the departure centres is demonstrably destructive for the children.

The children are affected on two sides: a life spent in insecurity, where the conditions in the centres cause them stress, while simultaneously their parents gradually lose the ability to care for them. It is often the children who must interpret and read letters and messages, and the parents do not have the surplus mental energy they would like. The children are split between an almost normal everyday life in a Danish school, and an unnatural life in a type of open prison.

Time is of the essence when it comes to children – at some point the state's policy could become 'inhuman and degrading treatment' and thus violate Article 3 of the European Convention on Human Rights. The Danish Ombudsman expressed very cautiously that "over time" the children's conditions could constitute a violation when he investigated Sjølsmark in 2018, but that we were not there yet. The Red Cross's psychologists' report, which was published the following year, showed that there had been a rapid and serious deterioration in the children's mental health after their move to Sjølsmark. However, it is not only the physical conditions in the centres themselves that negatively affect the children, but to a large extent the uncertainty about their future. The longer the stay, and the older the child, the worse the child typically gets.

Children's problems with school and education are described on page 29 and residence permits based on the best interests of the child on page 23.

Family of five from Afghanistan were living in one room, Sjølsmark 2017



Mobile shed used for newcomers, Sandholm 2010

SARA, KURDISH FROM IRAN / IRAQ

Sara has been in Denmark since 2012. Her ex-husband and their children of 6 and 3 years are Danish citizens. She has been refused asylum and was first placed in Kærshovedgård in 2017 while she was still breastfeeding her youngest child.

The ex-husband and children live an hour's drive from Kærshovedgård and he picks Sara up and brings her back almost daily. In the first years of her life, the daughter was admitted to hospital three times. Sara chose several times to spend the night at home with her sick child and therefore did not comply with the obligation to stay at Kærshovedgård overnight.

In 2018 and 2019, she was sentenced for violating her residency and reporting obligations. The first time a fine of 1,000 DKK, the second time 10 days imprisonment and a ban on entry for 2 years. She acknowledged that she had prioritised her sick child over fulfilling the obligations. In December 2019, she was picked up by the police without notice and driven to Horsørød Prison, where she served her sentence.

Sara is mentally vulnerable, has attempted suicide, and has been admitted to a psychiatric ward. She takes anti-anxiety medication, and she understands almost no Danish. In spring 2020, she was in court again for violations of her duty to reside. The sentence, of three months' imprisonment, was to be served in a psychiatric ward at Herning Hospital. Corona restrictions meant she did not see her children at all during those three months.

Sara was at one point acutely hospitalised and underwent an operation. Afterwards, the surgeon contacted Immigration Service and requested that she could be allowed to stay at home for the first few days, as the conditions at Kærshovedgård are not optimal for a recovering patient. The request was refused, and both the regional government and the Danish Agency for Patient Safety dismissed a complaint over this.

Today, Sara's mental state is very poor. She cannot have a normal conversation with anyone, speaks incoherently to walls and doors, and is constantly taking anti-anxiety medication. Nine months after she was discharged, the meetings she was supposed to have with a psychiatrist have not yet begun. Only when she is with the children does a small spark light up in her eyes.

In August 2020, Sara was refused family reunification with the children, as she was not allowed to apply from inside Denmark. She has been told to leave Denmark immediately. The case has been appealed, reopened, and she is awaiting a response.

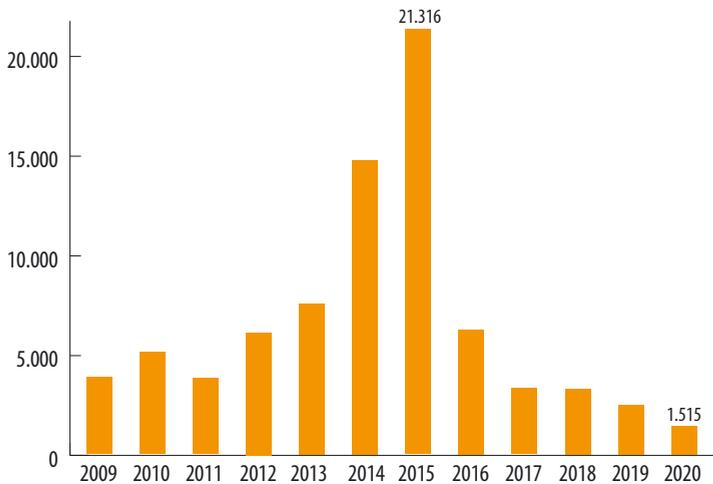
The case illustrates how unnecessary and inhumane the duty to stay in the centre is, and that the system leads to mental breakdown and criminalization. Sara should have had family reunification with her children a long time ago, and she should have been exempted from the obligations to stay as she has children with legal residence.

HOW MANY, HOW LONG, FROM WHERE?

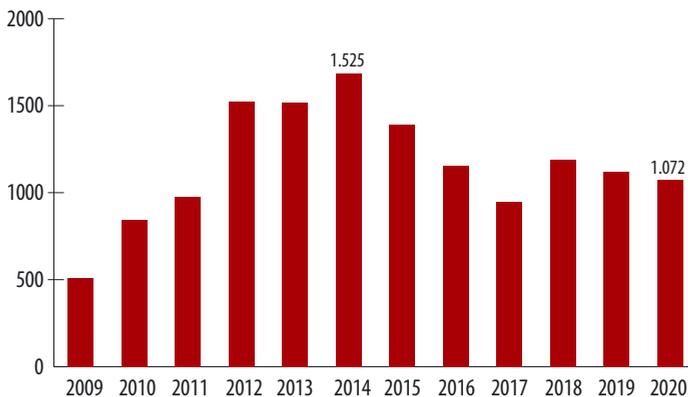
The number of new arrivals and the number of residents in the asylum centres have fluctuated greatly over the years. Today, the number is the lowest we have ever experienced. Only 1,547 new asylum applications were registered for the whole year of 2020, and a quarter of them already had a residence permit, typically from family reunification. There are less than 2,000 residents in 12 asylum centres. The highest number ever was in 2015, when there were 21,300 new arrivals and 98 asylum centres were opened.

Exit position

The number of rejected asylum seekers in exit position, on the other hand, has been surprisingly stable, and thus does not reflect the number of arrivals.



New asylum applications in Denmark, gross numbers



Rejected asylum seekers in return position

Source: Annual statistics from the National Police and Danish Immigration Service

PERSONS WITH PENDING DEPORTATION CASES, NATIONALITY / AGE / RESIDENCE. 2020

Source: LL

Residence	0-1 years		2-3 years		4-5 years		6-7 years		8-9 years		10 years +		Total
	Child	Adult	Child	Adult									
Iran	7	110	41	213	8	24		15	2	16		9	445
Iraq	3	90	14	28	3	8		5	1	11	2	8	173
Syria	7	112		11	1	1		1		3		1	133
Afghanistan	3	65	1	13	1	4		4		3		1	95
Stateless pal.	5	48		6	2	14		3					78
Russia	7	35			5	2			5	6		1	61
Somalia	6	40		4		1		2		1		1	55
Morocco	7	27		3	3	2		3		1			46
Rumania	1	42											43
Albania	2	26	4	2			4	4					42
Stateless	5	22	3	6		1		2				2	41
Nigeria		36				2		1	1	1			41
Turkey	1	30	4	4				1					40
Pakistan		26		2	1	3	3	3				1	39
Unknown	7	11	11	6				1		1			37
Eritrea	6	27		1		1							35
Ukraine	4	28		1									33
Serbia	3	21								1	6		31
Algeria		18		2		3		3				1	27
China		16		3		1		3		1			24
Burma	2	3		1	8	6		1		2			23
India	1	10		2			1	6		1			21
Lithuania		20											20
Vietnam		14		1		1				3		1	20
Others	120	1,242	79	335	35	100	13	72	13	71	5	37	2,122

1-3 years: total 1,776

More than 3 years: total 346

The table above shows persons with pending deportation cases divided by nationality, child or adult, and number of years since the start of the deportation case (the time during the processing of the asylum case is not included, this is only the time counted from the refusal). To be in *exit position* is not quite the same as having a *pending deportation case*; the latter also includes lapsed asylum applications, Dublin deportations, illegal residence, etc. Tolerated Stay is not included in any of these figures, read about Tolerated Stay in Chapter 5, page 83.

The figures cannot be used to give an accurate picture of how long rejected asylum seekers wait. If the case is reopened, they are not in a position to be deported during that period and some travel to other countries but are sent back again. For many, we can add several years to the figures to get the total number that they have been in the asylum system.

But the chart illustrates a definite trend: quite a few are returned within the first few years; these are the “easy” cases where there is no doubt about identity, where the authorities may already have the person's valid passport, or the home country issues a travel document without objection and accepts the person back, even though it may be by force.

After 3 years, however, it stands still. These are the “difficult” cases where there are no identity documents, the person will not travel voluntarily, and/or the home country will not accept them. Read more in the chapter on ‘Problems with departure’, page 77.

Those who are completely stuck in the system are thus relatively few but have many years of residence. The total number who have waited for more than 3 years is only 346, (of which 66 are children), and among these, 42 have waited for more than 10 years. The two largest nationalities are Iran and Iraq, since these countries do not accept their own citizens returned by force. But the whole list includes 113 countries, including several European countries. If you look at those with more than 10 years of residence (up to 27 years), however, they are all countries outside Europe, and only Iran, Iraq, Armenia, Kenya, Cuba, and stateless people, have more than 1 person with such a long stay (see figures on the next page).

After Kærshovedgård's first 3 ½ years (counted from March 2016 to September 2019), the figures looked like this:

• **Out of 653 residents there were:**

- 74 departed or returned;
- 78 received a residence permit;
- 26 transferred to another centre;
- 419 registered as absent (L).

From February 2015 to November 2020, a total of 5,228 foreign nationals were accommodated at various exit centres (OO).

“It does not help in any way to pressure people. How many have travelled home due to this pressure? They have all run off. Where? To France, to England, to other countries. There is not even one who has travelled to their country voluntarily.”

- Ibrahim, refugee, and Red Cross employee

PERSONS WITH PENDING DEPORTATION CASE, OVER 10 YEARS RESIDENCE, 2020

Residence	10-11 years		12-17 years		19-27 years	Total
	Child	Adult	Child	Adult	Adult	
Nationality	Child	Adult	Child	Adult	Adult	
Iraq		2	2	6		10
Iran		3		4	2	9
Armenia	1	3				4
Kenya	2	1				3
Stateless					2	2
Cuba				2		2
Tanzania		1				1
Algeria					1	1
Vietnam		1				1
Russia				1		1
Somalia				1		1
Kazakhstan		1				1
Tajikistan						1
Afghanistan		1				1
Uganda				1		1
Liberia				1		1
Ghana		1				1
Pakistan		1				1
Total	3	15	2	16	6	42

Source: LL

In my report “Asylum Camp Limbo” from 2011 (M) I described Petro's story. He arrived in Denmark in 1998 and has always claimed to be from South Sudan, but the authorities do not believe him. With 22 years in Denmark and 20 years as a rejected asylum seeker, he should be included in the form above, but South Sudan or “unknown” does not appear among those with more than 10 years’ residence. Refugees Welcome has unsuccessfully tried to get his case reopened and has for many years paid Petro's dental bills for periodontal treatment. He has not received a penny from the Danish state in many years.

ROLES OF THE DIFFERENT ACTORS

The authorities

The highest authority in this area is the Ministry of Immigration and Integration. Both the Danish Immigration Service and the Danish Return Agency are under this ministry.

The Danish Immigration Service makes decisions in asylum cases and Dublin cases, both of which can be appealed to the Refugee Appeals Board (in the second instance). The Danish Immigration Service also makes decisions in cases where asylum has been refused, but the applicant applies for other kinds of residence, including because of obstacles to deportation (§ 9 c (2) of the Aliens Act) and the best interests of the child (§ 9 c (1)). Applications for Humanitarian Residence (§ 9 b) are decided directly by the Ministry without access to appeal.

The Danish Immigration Service administers and pays for accommodation, transport, health services and the like, and enters into contracts with other actors for the operation of the various centres and tasks.

Since August 2020, the task of sending rejected asylum seekers home has been the responsibility of the Danish Return Agency. It now takes care of the following tasks: concluding a contract for cooperation, administration of residence, reporting and notification obligations as well as other motivational measures including deprivation of liberty, “return travel advice”, obtaining travel documents, and embassy presentations. These tasks were previously handled by the police, who now only deal with forced deportations and other tasks that require coercion or use of force. Read more about the Danish Return Agency on page 100.

It can be said about the authorities in the asylum area in general that almost all communication takes place in Danish, it is very difficult to get in touch with the right caseworker, there are waiting times of up to two years for one decision, and the individual offices handle only their own specific part of a case, which sometimes makes the process 'Kafkaesque'. Both the rules and administration are incredibly complicated and change constantly, which makes navigating the system very difficult for both asylum seekers and people from the outside who are trying to help.

The officials in the Danish Immigration Service and the Refugee Appeals Board perceive themselves to a very high degree as the extended arm of the government, and never criticise new bills as the Swedish Migration Board often does.

The Danish Immigration Service's asylum department has offices in Sandholm reception centre and in Kærshovedgård.

The Danish Prison and Probation Service

The Danish Prison and Probation Service has run Ellebæk prison for several decades and was given the task of running the two deportation centres, Sjælsmark and Kærshovedgård, when they opened in 2015 and 2016 respectively.

Although the residents of the deportation centres and the inmates in Ellebæk have not committed any crimes, they live under the rules of the Danish Prison and Probation Service. For example, in Ellebæk you cannot have a mobile phone and in Sjælsmark the staff can search any room unannounced.

Danish prisons have the objective of rehabilitation to prevent reoffending and provide a roadmap for successful release. The Danish Prison and Probation Service's website states the following: "Everyday life in prison must be as similar as possible to everyday life outside. Therefore, one should be engaged during the day with either work, education, or treatment. In your free time you must shop, cook, and wash clothes yourself, and you have the opportunity to participate in sports and other activities."

The purpose of the deportation centres is the exact opposite: that the residents should not believe they can ever become part of Danish society, and that their everyday lives should be as meaningless as possible. In other words, a person convicted of a criminal offence must have his own room and as meaningful an everyday life as possible in prison, while someone who has never hurt anyone but is just afraid to return to their home country must have the most meaningless everyday life as possible, must share a room with several others, must not cook for themselves, and must not do anything at all. "These are two different target groups and two different tasks that cannot be compared," says Niels Geil, the current manager of Kærshovedgård.

The employees in the deportation centres have very different backgrounds and only a few are trained prison officers. Due to the location and the nature of the work, it has been difficult to fill positions in Kærshovedgård. A new advertisement for a job as a nurse in Ellebæk prison describes the job as follows: "You will interact with people from many backgrounds, which contributes to a varied and exciting everyday life."

The leaders of the Danish Prison and Probation Service were quite critical of their task in the beginning. The first manager of Kærshovedgård was fired after a program aired on DR where he emphasised the meaninglessness of the project (see page 34). The manager of Sjælsmark also expressed something similar a few years ago but kept his job. Since then, the answers have become less critical. When asked about the effect of the motivational measures, Niels Geil of the Danish Prison and Probation Service replied to this report:

"The task of the Danish Prison and Probation Service is to operate the deportation centres within a defined framework, which includes administration of the rules on the

duty to report, that only canteen food must be provided, etc. The Danish Prison and Probation Service is responsible for the practical conditions in the deportation centres, but it is not the Danish Prison and Probation Service that monitors and handles return journeys. Of course, I can only say something about what the Danish Prison and Probation Service is responsible for – for example the canteen operation that you have asked about. I do not consider the canteen food as a motivational measure but rather the offer of a healthy and nutritious diet during the waiting period, and we support the administration of the duty to report as smoothly as we can.”

“But I can say this: the mere act of putting pressure on people does not seem to have any effect. From a professional point of view, it seems pointless. But it is a political decision, and we do not question it, we do not bring our own position into how we run things. (...) What is happening, at least from one side, is that this place is killing people slowly, just like the residents' own campaign was called at one stage. If you try to adapt to this place, then you will be killed slowly. (...).”

- Niels Johannesen of the Danish Prison and Probation Service, former manager of Sjølsmark, in the documentary “Cast Away Souls” from 2019.

“The Danish Prison and Probation Service talk to us in a really ugly way. Often for no reason at all, even if we just express frustration or ask for something. They answer in a harsh tone: ‘Why don't you go home, no one asked you to come’. They provoke people and threaten to call the police if you contradict them, but the police are usually quieter than them. A few of the staff are nice and helpful and they can walk around alone with no problems. But those who are harshest towards us, they always go around in twos, and they are sometimes threatened if the centre residents meet them alone in Bording.

I do not understand why they cannot treat us with respect – if we were not here, they would not have a job! I have been in the asylum system for 10 years and I have never been treated badly by a Red Cross employee. But here – ah, that's something completely different! That's also why they do not want us to have visitors or for people to film and take pictures here: they do not want people to know what is going on.”

- Laurent, resident of Kærshovedgård for 2 years

The Red Cross

The humanitarian organisation has run asylum centres since 1984 under a contract with the Danish Immigration Service. For many years they were the only provider, but since 2003 several municipalities have attempted the task. Today, only Tønder and Vesthimmerland municipalities run asylum centres in addition to the Red Cross.

The Red Cross also runs a special school for asylum seeking children as well as kindergartens and crèches in certain centres, a health clinic in all its own centres, and the care department as well as network staff in Kærshovedgård and Sjølsmark deportation centres. The Red Cross has always been responsible for Sandholm, which is a

reception centre with several special functions. The Red Cross's asylum department previously had their office in Sandholm, but this has now moved to the head office on Blegdamsvej in Copenhagen.

When it was decided that families of rejected asylum seekers with children should be moved out of Sjælsmark, the new agreement was that Avnstrup, which was previously an asylum centre and in recent years also a departure centre, would become a deportation centre for families, and that the Red Cross would continue to run it. This meant a more humane style without access control and barbed wire fences, and the Red Cross was also allowed to carry out a pilot project with a new version of the food box scheme where residents can choose the food they want themselves from a list.

When the families with children still lived in Sjælsmark, one could observe a grotesque paradox between the access control, the fences, and the residents' rooms, where the Danish Prison and Probation Service tried to make life as intolerable as possible, and the kindergarten and leisure club in the middle of the centre where the Red Cross tried to create a small island of security, cosiness, and normality for the children.

As an operator under contract with the Danish Immigration Service, one cannot call the Red Cross an NGO (Non-Governmental Organisation) in this context, but rather a private actor with a humanitarian profile. It is the Danish Immigration Service and the government that determine the framework and rules in the centres and decide how the money is to be used. But as a humanitarian organisation, the Red Cross tries to take the residents and their needs into account as much as possible, and in its consultation responses and annual reports, the Red Cross often criticises political decisions.

The Red Cross's argument for running asylum centres is that they do it better than, for example, a private company or a municipality would do and thus have a positive impact, and they may be right. But there is an obvious dilemma where a humanitarian organisation runs centres which, for political reasons, must be as unpleasant as possible within the framework set by politicians. After decades of austerity, the boundaries of what is perceived as normal or acceptable are also shifting. However, the Red Cross itself took the initiative for the psychological report on the children in Sjælsmark in 2019, which was instrumental in the families being moved into better conditions.

The Red Cross's Danish asylum department is (like the DRC) only a small part of a huge operation for giving emergency aid around the world. It is not an advocate for human rights, but rather an aid organisation based on its own seven principles: humanity, impartiality, neutrality, independence, voluntarism, unity, and universal validity. When concluding contracts, it is also necessary to consider maintaining as many of the organisation's jobs as possible – which also applies to the DRC.

“A while back in 2012, some selected families were allowed to move out of the centres and the Red Cross warned against it, being concerned about whether such vulnerable people could manage without daily help. But when they later asked those who moved out, they admitted that it was far better to live outside the centres, especially for the children.”

- Contact person from Grandparents for Asylum

“As far as I can see, in the time soon after they arrive, most asylum seekers perceive the Red Cross as a humanitarian organisation ready to help. If their stay in the asylum centre drags on, they begin to perceive the Red Cross as part of the police and the Danish Immigration Service. That is, they begin to fear them and distrust their motives. The smaller organisations that do not receive operating funds from the state seem more credible to many asylum seekers.”

- Morten Goll, co-founder and director of Trampoline House for 10 years

“Like all other tasks in the public sector, the task of handling asylum is also managed within the framework of the legislation. It is therefore a condition for everyone who runs asylum centres that this takes place within a framework and systems that are politically determined. At the Red Cross, we work to ensure that asylum seekers have as safe, meaningful and dignified an everyday life as possible within the framework that exists. At the same time, we focus on the asylum seekers being able to maintain and develop a perspective for the future, regardless of whether the asylum case leads to a residence permit or a refusal.”

- Red Cross asylum department

DRC – Danish Refugee Council

Originally, the DRC was established as an integration effort for Hungarian refugees in 1956, founded by several humanitarian organisations. It has never been an independent, member-based advocacy organisation such as Amnesty International and Refugees Welcome. The funding has come from the state and from municipalities, supplemented by fundraising. Later, DRC developed into one of the world's largest aid organisations outside Denmark's borders, with activities in 40 countries and a large number of donors and partners.

In Denmark, DRC works with integration initiatives under the names DRC Integration and Centre for Vulnerable Refugees. It is mainly Danish municipalities that pay for their integration work, and various projects receive support from pools and foundations. 7,000 volunteers are also an important part of the effort. In addition, DRC has its own Interpreting Service, which is an independent company.

In the area of asylum, DRC has various contracts with the Danish Immigration Service, just like the Red Cross. Under the Manifestly Unfounded and Dublin procedures, interviews and assistance to appeal are provided via DRC, funded by the

state, and written into the legislation. The legal advice that DRC offers to all asylum seekers is also financed by the Danish Immigration Service, as is a special provision of counselling in Ellebæk.

DRC has received money for the counselling service provided to rejected asylum seekers, Hjemrejserådgivningen ('Return Advice'), for many years, however, the Red Cross was also responsible for it for a period. When the new Return Agency was established, the government transferred the task and the funding to this new agency – thus changing independent advice into a conversation with a special purpose. DRC has also always been responsible for advising and administering repatriation support, which is what you can apply for if you wish to voluntarily give up your legal residence in Denmark and return home. Read more at atvendehjem.dk.

DRC regularly publishes country reports on its own initiative, often in collaboration with local branches around the world and other European refugee organisations. In addition, they often participate when the Danish Immigration Service's Country Office decides to make a country report. These reports are used in asylum assessments by the Danish Immigration Service and ultimately by the Refugee Appeals Board. In recent years, the interpretation of reports on Somalia and Syria has been controversial and led to much debate, as DRC and the authorities interpreted the sections of the reports addressing security risks very differently. The reports have been directly used to revoke and deny asylum.

DRC appointed one of the five members of the Refugee Appeals Board until 2016, when the then Minister of Integration Inger Støjberg cut the board members from five to three based on the argument that DRC was an advocacy organisation. However, the members appointed by DRC were often experts in asylum law.

In connection with returns and voluntary repatriations, DRC cooperates with ERRIN (an organisation working on voluntary reintegration projects) and with ERSO (an NGO network of local and European organisations). DRC normally receives a report from local partners one year after a return journey if they have been involved in it. DRC has previously run courses for the police on “sustainable” repatriations “with human dignity preserved”.

As a large employer, DRC (like the Red Cross) must try to retain as many of its employees as possible through tenders and contracts. Despite its funding sources, DRC has a very critical stance on the hard Danish asylum policy. They often speak critically in the media and in consultation responses and bring appeals against the asylum authorities' decisions on their own initiative. There is a certain dilemma present in performing tasks on contract for the authorities and even being directly involved in the asylum process, and asylum seekers are often sceptical about whether DRC will really help them or simply perform work for the government.

"Naturally, we have confidence in the Danish asylum system."

- Charlotte Slente, Secretary General of DRC

"The Danish Refugee Council must first and foremost deplore the Danish government's one-sided focus on pushing the limits of its international obligations and persistently deteriorating the protection of people who have fled wars and armed conflicts."

- from DRC's consultation response January 2019

"When I read the tender material on counselling, I noticed that one could be asked to advise people to return to areas to which IOM does not arrange return journeys. I saw this as a clearly political intention. But it is of course up to an NGO how closely to cooperate with the government. It is clear that if you work under such a contract, then you are doing what the government asks you to do."

- IOM employee, interviewed by AdMiGov, Kalir et al. 2021 (B)



A bed sheet from Ellebæk used as a curtain in Sjælsmark

CHARLES, UGANDA

Charles was originally married and had two children in Uganda but received accusations of and threats for being gay. This is illegal and punishable in Uganda, so he ended up seeking asylum in Denmark. However, the Danish authorities refused his application and Charles spent 8 years as a rejected asylum seeker. He tried to cooperate as best he could as he is a very kind and polite man, but he was afraid to return.

Charles did not succumb to passivity and depression in the centres like so many others. He was a good DJ and built up a large network of friends in the Copenhagen music world, where he became a regular part of the nightlife. He arranged concerts, parties, and music every week. He used the money that came in to invest in equipment. His biggest desire was to run a perfectly legal company, so he could make money and pay taxes – but he could not do so without a residence permit.

The pressure from the police grew and eventually he could not bear to stay in the centre and meet with the police. He lived underground for a while but knew full well that he would end up in Ellebæk if he was captured. Therefore, he decided to plan to return to Uganda on his own and build a new life there.

Three organisations and a few private individuals helped plan his return trip and agreed to support him financially. He could pay for his plane ticket himself but needed help to get his heavy equipment shipped to Uganda and pay rent and food for the first few months.

After half a year it was all ready, and Charles returned home on his own and settled in another part of the country where the original threats would hopefully not be repeated. He was happy to see his children again after so many years and is building a small company that is slowly progressing.

A thorough and well-prepared support course could have persuaded Charles to travel voluntarily at an earlier stage. And the only thing that enabled him to make this decision himself and plan his return trip was that throughout the years he had maintained and strengthened his own resources – even if in an illegal way. If he had been allowed, he would have built up his own company in Denmark and been self-sufficient many years ago.

4. DEPARTURE: VOLUNTARY OR FORCED

DEFINITIONS, DENMARK AND THE EU

If an asylum seeker is refused asylum and has no other reason to remain, the natural consequence is that she must leave the country. However, this is easier said than done due to many factors which are described in Chapter 5: Problems with departure.

In the real world the following options remain: the authorities can force the person to travel; the person can be coerced into traveling reluctantly; the person can enter into an agreement to travel voluntarily; or the person disappears. Unfortunately, it cannot be gleaned from the statistics precisely how these various options are used.

Denmark's definitions and the way the figures are calculated have changed over time, and the definitions are not the same as those used in EU statistics.

The Danish statistics only describe the role played by the police in the case, and even this is uncertain as it is not clear when physical coercion has been used. They say nothing about how the person felt about leaving Denmark. The fact that the word “voluntary” is used at all around returning home after being refused asylum is a misnomer and it prevents a real dialogue with the rejected asylum seeker, while at the same time presenting a false picture of the situation. It is almost never a question of voluntariness, but of the degree to which one accepts an unpleasant situation. It would be more accurate to use the categories “disappeared; travelled under their own initiative; accepted; deported”. ECRE recommends using the term “forced return” when a rejected asylum seeker is sent home, even if it involves a form of cooperation.

Danish categories:

- ***Travelled under their own initiative***

Confirmed information that the person has left by herself. Could be voluntarily or under pressure, but the authorities are not involved.

- ***Supervised departure***

The authorities made sure that the person boarded a plane or ship to her home country. Most often accepted under pressure but with the person participating in some way. However, it can also involve force, for example if the person has already been deprived of her liberty.

- ***Accompanied departure***

The police accompany the person all the way to her home country or to a transit destination. Most often forced or involving the use of force because the person has not collaborated. However, the escort can also take place at the request of the airline, the country of transit, or because the person wants the police to accompany her to the destination.

From 2004-2011, there was a category called '**presumed departure**' for those who had disappeared from the system and whose whereabouts were unknown. This category was by far the largest in those years and would probably also be so today. In 2008, the total number of supervised departures and accompanied departures was 71, but the number of 'presumed departures' was 589 (S).

“Some very vague definitions are used, which makes it very difficult to talk about what is a forced and what is a voluntary departure.”

- IOM Denmark, interview in AdMiGov, Kalir et al. 2021 (B)

EU categories:

- **Voluntary returns** ('travelled under their own initiative' are reported here)
- **Enforced returns** (supervised departures + accompanied are reported here)
- **Assisted returns** (usually voluntary but may also be compulsory acc. to the EU)
- **Non-assisted returns** (registered on departure, not receiving support) (T)

IOM has assisted several returns. According to IOM, their figures are not included in the internal Danish statistics as they rarely involve rejected asylum seekers, but they are included in the figures that Denmark reports to the EU as "voluntary returns".

The groups of people described are also different in the Danish and EU figures. The Danish figures cover the following persons: refused access to the asylum process; rejected asylum seekers; Dublin, pre-asylum dropout; illegal stay; and expelled via a court decision. EU figures cover: all non-EU citizens; denied entry; illegally present; ordered to leave the country (administrative or judicial decision, not including Dublin cases).

According to Claes Nilas, director of the Danish Return Agency, the statistics that they took over from the police were "a mess", and he will work to ensure that the agency builds up a new kind of statistics for what he calls "return businesses".

Finally, some of the numbers are secret. As a result of the agreement that the Danish and Somali authorities entered into in 2017, figures for deportations to Somalia are included under "other". This is done "at the request of the Somali authorities" to obscure everything concerning the agreement.

Presumed departure / disappeared / gone underground:

In Denmark, a system has been built that produces "illegality", as far more people go underground than are sent back to their home countries. This is a growing phenomenon and a direct consequence of the deportation centres and the restricted rights of rejected asylum seekers: there are very few advantages to being "in the system" compared to living underground today.

However, the many who disappear from the system in one way or another, do not appear in the Danish statistics after 2011. Both Refugees Welcome, DRC and the researchers involved in this report agree that very few people have returned to their home countries. The vast majority have travelled onwards or back to another European country, where they are either living underground or seeking asylum again.

- A statement from the police in 2017 shows that a total of 6,351 were “wanted”.* Of these, 1,960 were rejected asylum seekers and 717 had a Dublin case.
- However, the largest number (3,036) had disappeared before they applied for asylum – and this supports the presumption that many are stopped in Denmark against their will while on their way to seek asylum in another country (typically Sweden).
- In 2017, there were 945 people in return position, and 586 were returned, but far more disappeared. Among others, 351 rejected Somalis had disappeared (U).
- According to an article in Berlingske from January 2019, only 25 out of 250 Somali refugees who had their residence permit revoked were confirmed as having left the country (C).
- Of the 653 people who left Kærshovedgård during the centre's first 3 years, 74 had left the country or been deported, 78 had received a residence permit, and 419 had been registered as missing (L).

“While we were waiting for a decision in the asylum centre, there were many other Afghans who were rejected. None of us considered returning, why would we have risked our lives if we were not in danger in Afghanistan? We were a group of 8 and we heard that you could avoid the Dublin rules by going to Canada, so that was our Plan B even before we got a decision – but it would be very dangerous, spending at least 20 days in a shipping container and there was no guarantee of survival. I was granted asylum, but many others were refused. They all travelled, but not to Canada. They went to France and Italy and had their cases reopened.”

- Fareed, Afghan refugee and researcher

“I made money and bought equipment for several years. It dawned on me that if I was deported, I would lose it all. Therefore, I decided to go home by myself without the police knowing. I arranged it all, sent my asylum card to the police and told them that I had left the country. It was also about pride – I can go by myself, and I do not want any report with my name on it.”

- Charles, rejected refugee from Uganda, returned home after 8 years in Denmark

*) The number is probably high due to a large number of entries into Denmark in 2015-16. If the person has not reappeared after 18 months, the search will be deleted. It is thus only a snapshot, and therefore the total number of the missing is even higher. In Refugees Welcome we have met many people who have lived underground for several years in Denmark.

Repatriation

There is also another way to return home, but these numbers are calculated separately in Denmark. It is a program for which DRC has been responsible for many years, but which under the “paradigm shift” received new attention and is now being used offensively by the government. Instead of being a positive offer whether to receive support, if, after many years in Denmark, a refugee decides to return to her home country which is now more safe and stable, the caseworkers in the municipalities must now tell all refugees and immigrants about this opportunity regularly. This is something that both caseworkers and refugees often perceive as completely contrary to integration efforts.

This kind of support includes a much larger cash amount, as well as the possibility for health insurance and a small pension for the elderly in years to come, provided the beneficiary has a residence permit in Denmark they are willing to waive. Syrians and Danish citizens with dual citizenship have also recently been included in this program. Read more at atvendehjem.dk

HOW MANY ARE LEAVING, AND HOW?

Looking at the EU as a whole, only approximately 35% of people who receive a decision about leaving the EU actually do so (V).

Deportations

As can be seen from the previous sections, it is quite unclear how many actual deportations occur from Denmark. Forced deportations are a form of physical abuse that is extremely unpleasant for both rejected people and the police officers responsible for enforcement. Although the Danish authorities do not use the word “deportations,” the term is used by researchers, activists, and refugees themselves, and so it is used here as well.

“If there was a risk that I would be sent back to Eritrea, I would run away at the first opportunity. If you end up in jail in Eritrea, there is almost no chances of escaping, then it's too late. And I know what happened to 200 Eritreans who were deported from Malta in 2002; they were imprisoned and tortured. My cousin was in the same prison. I have been imprisoned enough in my home country and in Libya.”

- Yohannes, refugee from Eritrea

Violence and resistance

The most violent deportations can only be described as outright abuses where people who are rejected resist deportation, try to run away or even commit suicide, and at the airport often shout and plead for help from flight attendants and other passengers. But it must also be described as a forced deportation if four police officers knock on a door in Sjølsmark early in the morning without notice, take a resident and detain

DEPORTED IN 2019 BASED ON NATIONALITY AND TYPE OF REMOVAL

Nationality	Accompanied	Supervised	Own initiative	Total
Afghanistan	22	4	1	27
Albania	0	39	0	39
Armenia	0	17	0	17
Georgia	6	74	5	85
Iraq	5	33	6	44
Iran	4	17	1	22
Morocco	13	14	0	27
Nigeria	6	2	0	8
Ukraine	0	20	0	20
Venezuela	0	8	0	8
Others	37	105	10	152
Total	93	333	23	449

DEPORTED 2012-2018 BASED ON TYPE OF REMOVAL

	Accompanied	Supervised	Own initiative	Total
2012	140	340	22	502
2013	518	587	170	1,275
2014	137	384	95	616
2015	104	384	170	658
2016	73	243	176	492
2017	127	364	106	597
2018	111	341	35	487
Total	1,210	2,643	774	4,627

Source: Danish National Police

him in Ellebæk, and the next day – also without notice – put him on a plane to his own country. Although the person in question may nicely comply and not resist, it is still a forced deportation because it happens largely under duress.

The phrases “Accompanied departure” and “Supervised departure” sound misleadingly nice. The same goes for the police and the Return Agency’s joint phrase “a return business”. In most cases, the experience involves uncomfortable and traumatising experiences for the person being deported, despite the fact that an individual police officer may try to behave appropriately.

A deportation typically takes place via regular flights. It is possible that the plane’s pilot refuses to transport a rejected person who resists deportation. Activists have also been successful in getting in the way of deportations by getting the other passengers to protest. This strategy can however lead to an increased use of chartered flights, where the police can use more extreme methods.

Ulrik Dahlin has written in the newspaper *Information* about deportations over the years, including the three examples on the next page.

The role of doctors

In connection with the deportations where the police have concerns that a person will resist, or where that person has resisted before, doctors have been asked to give the person a tranquilizing injection. If the person is very ill, a doctor will sometimes also travel together with them on the flight. This has been heavily criticised by other doctors, and the Swedish and Norwegian doctors’ association have distanced themselves from doctors who participate in deportations. The Danish doctors’ association has been much more reserved but ended up discouraging this type of participation after international pressure.

According to documents obtained by *Information*, doctors earned a total of 277,600 DKK per 20 deportations between 2014 and 2016. The highest amount earned was 26,524 DKK for a deportation to Afghanistan in March of 2014.

Covid-19 gave way to a new question about forced deportations. It was challenging to deport people under the Corona-crisis, given that people could not be required to take a test or be vaccinated. As a result, a new provision was added to the Aliens Act § 37 a, 8, whereby the Return Agency can require a foreigner to be examined for an illness which falls under the emergency health law, in this case Covid-19, if it’s necessary to ensure the foreigner’s departure. The Return Agency can in this way have foreigners force-tested with support from the police, though first after being given permission from the Integration Ministry.

CASE 1: A deportation to Afghanistan in 2016 went very wrong. It happened under the fifth attempt to deport a 21-year-old man, this time by chartered flight from Roskilde to Kabul together with a family of three. The police knew that the man had not taken his prescribed medication for anxiety and depression that day. When they arrived to pick him up, the man swallowed a tiny razorblade. The police were unsuccessful in getting the man to spit it out, and there was blood everywhere. At last, the man swallowed the razorblade. But this did not get the police to cancel the trip.

The police took all of the man's clothes off, including his underwear, and gave him new clothes on and a kind of straitjacket that strapped in his hands, arms, legs, knees and ankles. On the flight, a police officer pressed his thumb in between the man's jaw and ears, a special trick to "get him to calm down."

In Kabul, the man refused to leave the flight. Afghan officials declared, after long discussions, that they would not accept the man or the family. The police's threat that the case would be "brought up politically at the highest level to the Danish ambassador of Afghanistan" was without effect. The police had to take the four rejected people back to Denmark.

CASE 2: In 2017, a deportation to Algeria ended with a 34-year-old man dying. A Danish passenger on a regular flight later told Ekstra Bladet that "I could see that there were three officers on him. Two of them were laying on top of him, the third was holding him back in his seat." According to the Dane, the chaos lasted half an hour, whereafter the Algerian man lost consciousness. Shortly thereafter, passengers were asked over the plane's loudspeaker whether there was a doctor onboard the flight. "There was, by chance. The doctor gave him mouth-to-mouth and heart massage, until an ambulance came and drove the man away." But two days later, the Algerian man died at the hospital. A subsequent investigation did not find grounds to criticize the police.

CASE 3: In 2018, a family of six was sent to Afghanistan accompanied by 10 police officers. The accounts of what happened on the flight are different, depending on whether one listens to the family's 16-year-old daughter or the police's accounts. According to the daughter, her mother had her head pressed into the lap of an officer and lost consciousness. But according to police, the woman "acted as if she was passed out," and the report does not include anything about the use of force against her.

According to the daughter, several hours passed on the flight where the children and father did not hear a word from the mother and were not allowed to see her. The officers ensured them that she "was relaxing and was fine", but they yelled and cried and were afraid that she was dead. She woke up, but was ill and complained of pain in her hand. In Kabul, the woman was later brought to the hospital where it was determined that her hand was broken.

Ever since a death that occurred under a forced deportation in 2015, Swedish officers employed by the Swedish Prison and Probation Service are no longer allowed to bend a forced deportee's head down towards their chest. This maneuver is, however, still allowed in Denmark.

Expenses

Besides the personal and practical considerations, there is now another reason for the state to try to achieve more “voluntary” departures. Deportations are expensive, and the more force used, the greater the expense. An “assured” departure requires only transportation to the airport and a ticket for the deportee. An accompanied departure that happens peacefully, requires a plane ticket for the deportee and accompanying officers, and potential accommodation for the officers – often five or six officers – before they can fly back again. For the forced deportation described on the prior page of a 21-year-old man and a family of three, the police had chartered a flight with a minimum of 180 seats. In addition to the officers, there was a doctor and a translator on the flight, and one of the officers had traveled in advance the day before. In total, the police paid **1,040,000 DKK** for the deportation, which they ultimately did not succeed in completing.

Chartered flights are clearly expensive, and it is difficult for Denmark to fill up a flight to one destination. Therefore, there are ongoing negotiations with other EU countries about using joint flights, but it is not common practice for the Danish police. Transfer via Frontex is even more expensive.

Handing over to the home country’s authorities

For the accompanied deportations, officers deliver the rejected directly to the home country’s authorities in the airport and await that the person is allowed to enter the country. This approach bears with it a risk, in that the authorities in this way are made aware of the fact that the person has likely sought asylum, and maybe left the home country unlawfully. This has in many instances led to the person being either immediately or shortly after brought in for investigation. For example, a large number of Tamils who have been sent home to Sri Lanka from Europe have been withheld, subject to interrogation and threatened to provide contact information and describe their activities under their stay outside of Sri Lanka.

This factor is also important in the current situation, where Syrians have their permits to stay in Denmark revoked. A set of reports describe that Assad’s regime calls all of those arriving back in Syria in for registration and interview, which can constitute a significant risk for them. It is therefore paradoxical that one revokes Syrians’ residence permits, but at the same time won’t participate in discussions with the regime about taking them back.

It can also happen that the home country refuses to accept the deportee, so the police must take the person back to Denmark. In the case with the 21-year-old Afghani man described earlier, it was not the authorities he feared, and they even refused to take responsibility for the young man, when he yelled that he had converted to Christianity. In several instances, the home country’s authorities also refuse to accept vulnerable individuals, who can be at great risk in the country. Afghanistan is, for example, very reluctant to accept single women, young children, and sick people. See also the case Estella and Thierry, DR Congo, on page 26.

Both the police and the Ministry of Foreign Affairs are in constant negotiations with a number of countries about accepting their own citizens. Development aid, access to visas and the like has increasingly been part of these negotiations to put pressure on the home countries. Read more in chapter 5 under 'Negotiations with receiving countries' on page 78.

“Even though you didn't have any political problems before you left, you definitely have an issue if you are sent home by the Danish authorities, and the Danish police have traveled together with you back to your home country: “Okay, you have been in Denmark and sought asylum, what have you done”? And it's precisely the same if you sign and collaborate – because the Danish authorities have gotten in touch with your country's authorities and had your papers issued, so they know in advance where you have been and why.”

- Ibrahim, refugee from Palestine

HAMZA

Forced deportations to Somalia have been a highly discussed topic, especially after hundreds of Somalian refugees living in Denmark had their residence permits revoked between 2018-2020. Many of them have disappeared, most of them have likely ended up in other European countries, but we do not know how many were sent home. The Danish authorities entered into a confidential agreement with the Somali authorities in 2017, which means that the cases about withdrawing permits happen behind closed doors, like terror cases, and the amount of forced deportees to Somalia is hidden in the statistics under “Others.”

In March of 2021, a young man was sent back to Mogadishu, accompanied by the police and the Return Agency, after nearly a year's stay in Ellebæk prison and without his attorney being informed. He called his Danish friend from Mogadishu and explained that he was about to speak with the immigration office at the airport. Since then, no one has heard from him, and the attorney that his friend has hired in Mogadishu still has not found him. He was granted asylum in 2014 because he feared a death sentence that his clan had issued for him (PP).

SUSTAINABLE RETURNS?

To return home after a rejected asylum application is not as simple as it sounds. First, many are still afraid, for the same reasons they initially left their home country, and don't accept the rejection. In addition, the return home can pose a major risk and even more hopeless situation for the individual than that which caused them to leave their home country in the first place.

In the area of migration research and human rights, one speaks about "sustainable returns." This means that force should be avoided, and that attempts should be made to ensure that the returnee has the possibility to build a future. The fact itself that someone left their country a long time ago often means that they lost their network and income and hence find themselves in a particularly vulnerable position. Home countries are often poor, conflict-stricken, and without a social safety net.

There is a big risk that those who return home – both voluntarily or by force – end up fleeing again. It is a vicious circle that should be avoided. Therefore, the authorities should consider whether one should always insist on sending people home.

The Danish Institute for International Studies (DIIS) recommended in a policy brief from 2013 (P) the following three factors as determinative for ensuring sustainable return:

- Information and advice;
- Maintenance and growth of competencies;
- Individual preparation.

"If we were sent back today, I would still have the same problem as when I came in 2009. I would be taken directly from the airport to jail, but I could probably pay a bribe to get out. I would be even more concerned for my children now. They have grown up here, and if we go back, everyone will say "aha, he is coming back from Europe, so he must be rich." There would be a big risk that my children would be kidnapped. We would need to flee again at once."

- Fareed, Afghan refugee and researcher

"To be deported to Afghanistan is a very serious situation, especially concerning honour and dignity. Everyone assumes that you raped a woman or did something else horrible – I thought the same, when I lived there. Even your family would turn against you. But even those who come back voluntarily (or say that they do) have problems – they are considered to be morally corrupt."

- Rahim, Afghan refugee and student

“Even the expression “returned home” is misleading, given that so many people are forced to turn back to an extremely dire situation (economically, security-wise, and socially) which is also very different from the one they left. This actually means that one must start from scratch, often in a totally different part of the country. Many feel more connected to Denmark after years away from their home country. Deportations often result in additional moves and migration – back to the EU or to other countries – and are ultimately not a “sustainable solution”, as the United Nations defines the goal for people who are fleeing.”

- Annika Lindberg, researcher, Copenhagen University

“It is my experience that very few of those who have been deported end up in their home country. Most go other places. I don’t know many who have voluntarily travelled home after a rejection, and amongst them it is only the most resourceful that are able to do somewhat OK. Most people struggle to survive. Every removal policy should therefore thoroughly prepare people to be returned home again. Information, tools, economic support, education – instead of confining them for years in removal centres and jails. The longer they stay in these types of places, the more downtrodden they become, and the less prepared they are to travel back.”

- Tone Olaf Nielsen, co-founder and co-director of Trampoline House for ten years

CASE AT THE EUROPEAN COURT OF HUMAN RIGHTS: N.A. VS. FINLAND 2019

A man from Iraq had his request for asylum rejected in Finland, based only on a risk assessment and not due to a lack of credibility. He agreed to a voluntary, assisted deportation with IOM in October of 2017, but he was murdered only 19 days after his arrival in Iraq. He was killed by a shot from an unknown perpetrator on the street in Bagdad. He had decided to voluntarily travel back to Iraq after the rejection of his asylum application, and after the departure deadline had run out, to avoid imprisonment and to avoid the interest of the Iraqi authorities.

The big question for the court was whether he travelled back voluntarily or was forced to depart – or ultimately whether his death was Finland’s responsibility or not. The court determined that he did not have a truly free choice, given that his application for asylum had been rejected. The court found that Finland, to a larger extent, should have acknowledged the risks that the deceased had been seeking refuge from, and that his death was therefore predictable and could have been prevented. Therefore, Finland violated his human rights and had to compensate the daughter he left behind.

Problems for those sent home

Most refugees have been on a long journey before arriving in Denmark – often for several years. And handling of the asylum case in Denmark can also easily take a few years. Many families from conflict-ridden areas are being spread across the world. Therefore, they rarely have anything to return to. The family network, which is a deciding factor in survival in for example the Middle East and Africa, are either very small, have disappeared, or without resources to take in another person. Those that make it all the way to Europe are usually the most resourceful families – but they are sent home in much worse shape.

The trip to Europe is extremely expensive. Because legal entry has become impossible, people are forced to pay both smugglers and bribe the authorities along the way. In the Sahara, they can be kidnapped, and released only if their family pays a large sum of money. Therefore, most people have sold their valuable possessions and owe their friends and family a lot of money. The trip itself, from for example Eritrea or Afghanistan, typically costs 30-80,000 DKK, and kidnapers in the dessert charge at least as much.

To return home with empty pockets and without a residence permit are both a personal declaration of failure and an unbearable recognition that they have put their life in play and lost all of their assets for nothing. It is also a loss of honour to their families, which had been hoping to receive help rather than needing to provide help. Moreover, they can have lost certain rights, for example access to schools or healthcare, due to the long absence. Many have also developed mental illnesses, which are often a combination of experience in their home country before they leave, on the journey and during the long stay in the asylum system.

A person who returns home after many years in Europe becomes the object of a lot of attention. Culturally, they can be stigmatized, where the local community views the person returning home as “western and immoral.” Some become the target of robbery, kidnapping, or blackmail, because people think they have money or that they have made friends who are well-off in Europe. Finally, this attention can increase the risk of religious, sexual, or political persecution, which may have been the exact reason they fled to begin with.

“If one has been many years in the West and returns home, one may think, that everything is okay – several years go by, and nothing happens. But at some point, someone will take revenge on you. An Afghani saying says, that revenge is sweeter, the longer one waits – so maybe they wait with their attack until your child’s wedding, to hit you the hardest. If you send people back, something bad will eventually happen to them.”

- Fareed, Afghan refugee and researcher

“The Danish government sends their soldiers to Afghanistan or Iraq – they fight against terrorism, that’s good – but they should also help other people, they should also have solidarity and stand together. They need to make a strategy and a plan for the refugees who get rejected. Not only the Danish government alone, that would be hard. They should divide refugees in the Schengen countries, and they should stand together. If they send them back to Afghanistan, Iraq or Syria, I can’t see a future for them. I am sure that their lives are at risk.”

- Rahim, Afghan refugee and student

Many reports from refugee- and human rights organisations have shown the many risks that returnees are subject to as a result of the named factors. But generally, there has been very little research done on how returnees manage, and the European countries’ authorities don’t monitor what happens to the many thousands that get sent home (X).

Support for returning home

There are many reasons that the state would rather convince people to travel on their own, or in a calm and orderly fashion with help from the state – and the state is also willing to pay a lot of money for it. AVR (Assisted Voluntary Return) programs have existed in all European countries since the 1970s. However, politicians are also concerned that the financial amount and support can in itself attract additional applicants, and they therefore try to strike a balance.

The Danish state always pays for transportation to the home country. Throughout the years, there have been different offers to nationals from different countries for support in the form of a cash payment after arrival, and/or different agreements about “in-kind” support: materials, equipment, machinery or something else that can help them to become self-sufficient. This is often in cooperation with NGO’s in the home country or international organisations like IOM (International Organisation for Migration).

At the moment, there are offers for AVR-support to a number of countries, including Afghanistan and Iraq, via DRC and in partnership with ERRIN (European Return and Reintegration Network) and ERSO (European Reintegration Support Organisation), but no Danish state programs. DRC is responsible for the program in Somalia, which also includes payment of a small cash amount. The support requires that the rejected person cooperates in returning home, and the value of the support often has a value of approximately 20,000 DKK, which is given in the form of transportation, temporary housing, courses, medicine, help to start a small business, and the like.

“Quite frankly, it doesn’t make sense to offer people 20,000 DKK to travel home. It disappears as soon as they land in their home country, it is nothing. It costs a lot of money to travel, a family has often paid 20-40,000 dollars to the smugglers, so it is unbelievably difficult or impossible to return with empty hands and begin from

there. It's not like Denmark, you don't get help from anyone. If someone has been away for several years, their children have also lost their ability to speak the language, and if they are to return to school and further education, what does one do then? A 16-year-old, starting in third or fourth grade again? There are many things, it isn't just the economics. For me the economics weren't the most important, because we both were highly educated."

- Ibrahim, refugee from Palestine, received residence permit after 12 years of being rejected

"This thing of offering money to go home, it's complicated. On the one hand, people really need a whole lot of money to start a new life from scratch in their home country. On the other hand, there is also a large risk of being robbed or kidnapped when one returns home. So, actually, the situation is really dangerous, regardless of what one does."

- Charles, rejected refugee from Uganda, went home on his own after 8 years

THE DRC-PROJECT IN KOSOVO 2006-2008

In Denmark, there have been a few return programs directed at particular groups. DRC, the Danish Refugee Council, was responsible for a particular program in Kosovo for rejected asylum seekers. Many people had at that time been in Danish asylum centres for many years and had poor mental health. The program consisted in part of providing advice prior to the return, and in part of support in Kosovo in the form of food and other goods, help with buying business equipment and home building materials, and language lessons for children and assistance with enrolling them in school. Healthcare assistance and psychosocial support was also added underway.

Evaluation of the project showed that the rehousing was reasonably successful, but that half of the people ended up moving in with family. Most people did not find a stable income, and many were left in a terrible situation when the program's health and psychosocial support ended. The children's access to school also turned out to be a big problem.

DANISH PROJECT IN NORTH IRAQ, CARE4YOU 2007

Denmark attempted a project in North Iraq with the aim of getting more Iraqis to voluntary travel home. But only 5 out of 150 rejected Iraqis joined after attending an information meeting, and some had been on so-called go-and-see trips (a concept included as something permanent in the new Return Law). Even though there wasn't any imminent danger in North Iraq at the time, most people were worried about employment, housing, healthcare, and schooling. Many of the rejected Iraqis responded very negatively when asked to consider participating.

NORWEGIAN PROJECT FOR IRAQIS 2006-2010 (IRRINI)

Norwegian immigration authorities offered a special program for Iraqis from North Iraq and Bagdad in partnership with IOM. In total, 859 Iraqis were covered by the program. Evaluations showed that when participants were asked prior to their journey from Norway, 79% felt well-informed about the situation in Iraq from the media, family, friends and the internet. But when asked after they arrived in Iraq, ¾ answered that it was very different from what they had expected. Moreover, most of them expressed uncertainty surrounding what the program could actually offer and a general distrust of the information from the organisations responsible for the program. The majority did not view the program as a voluntary offer. They preferred the phrase “forced return” which ECRE has suggested.

NORWEGIAN PROJECT FOR AFGHANS 2006-2008 (IRRINA)

An offer of advice and a cash payment paid out after arrival and reintegration support. The program was put in place at the time when it became possible to forcibly return people to Afghanistan in the hope of getting more people to voluntarily travel home. But it turned out that only 69 adults had joined the project, whereby 3 times as many were forcefully deported. Most of the people that said yes did not do it for the money, but to avoid the forced deportation.

As with the Iraq project, the participants did not feel informed about the program. They all chose grants for starting up a business but answered that they would rather have had help with finding a job. Most of the supported businesses did not work in reality. One of the reasons appeared to be that the amount budgeted for purchasing was too small (10,000 NOK). Another reason was that participants lacked training and experience. It turned out that many had sold the equipment they had gotten. The evaluation recommended educating and developing the recipients’ qualifications during the asylum process, which would benefit them regardless of whether they were ultimately granted asylum or sent back home.

SELATIN, ALBANIAN FROM KOSOVO

Selatin came to Denmark and sought asylum as a 24-year-old in 2000 but was rejected. He had been forced to participate in military actions and had seen his best friend be shot right beside him. His experiences had traumatized him, and he often awoke covered in sweat with nightmares.

For several years it was impossible to send rejected asylum seekers back to Kosovo because the region was under United Nations administration, and they could not handle more traumatized people than those already there. Selatin therefore waited 7 years in Denmark, living the last year underground with a Danish family, because he was afraid of being sent back.

He was rejected from humanitarian stay despite statements from a psychiatrist describing how he suffered from anxiety, was at risk of developing psychosis and chronic trauma and needed psychiatric care.

One day, by chance, Selatin was taken by the police and put in Ellebæk, where he spent a few months while his travel documents were being prepared. He experienced panic and angst at the idea of going back to the place where his nightmares had taken place and was sure that certain people would find him and kill him. He was forcefully deported to Kosovo in 2007. His family, who had not seen him in nearly 10 years, welcomed him with pleasure. It occurred to him how much he had missed them and his home country, and luckily, he was not sought out by anyone.

At that point, DRC had a special receiving program for voluntarily home-bound individuals. Though Selatin did not return home voluntarily, he was included in the support program, and received building materials to put an extension on his family's small house. He got a job, was married, and had two children within a few years after returning home. He still writes in Danish to his friends in Denmark and has been back to visit Denmark on a tourist visa a few times.

Because forced removal to Kosovo wasn't possible for years given the United Nations administration, Selatin should have been given a residence permit given the obstacles to deportation. Luckily, his story ended well, but 10 years of his life were wasted in the asylum system, and the anxiety he experienced in connection with the deportation could have been avoided.

5. PROBLEMS WITH REMOVAL

As seen in the chart on page 50 in chapter 3, there are always a certain number of people in Denmark who don't have permission to be here, but still can't travel out of the country. Some of them have been in that situation for more than 20 years. There are many different reasons for this, which will be explained in this chapter.

The expression "obstacles to deportation" is a legal term, but is defined very differently in different countries. The Danish Aliens Act contains a special section (§ 9 c (2)) addressing the problem, which should give temporary residence in those unresolvable cases, but it is extremely rarely used. The requirement that the foreigner cooperates, and that the deportation is impossible to implement means that the Immigration Service hardly ever determines that the requirements are met. Read more on page 22.

DIFFERENT OBSTACLES

Many circumstances can make it difficult to send a foreigner back to her home country. Not only in reference to the technical term 'obstacles to deportation', but more often it's a situation the authorities refer to as "unresolvable". This is typically either due to problems with identifying the person and obtaining their travel documentation, or that the home country doesn't want to accept the foreigner, either because the foreigner doesn't want to travel there or for other reasons.

Individual problems with determining identity

The majority of asylum seekers come to the country without a passport or other valid identification. This can be due to three things:

- 1) Most people around the world never had a passport, and many of the identification documents used at a national level are easy to forge, so it's hard to ensure if they are authentic.
- 2) For those who have a passport, it is almost impossible to get a visa to travel into Denmark from those countries where asylum seekers most often come from. Denmark breaks all countries into 5 groups, and the higher likelihood for a country to "produce" refugees, the harder it is to get a visa, even for those with family in Denmark.
- 3) Most people travel into Europe with the help of smugglers, either hidden in lorries and the like, or with false papers. Smugglers typically advise people to throw their genuine paperwork away, but some people also lose their papers during the trip.

These three scenarios mean that a person's identity cannot always be determined with certainty during the asylum process, and instead depends on an assessment of a person's answers to questions surrounding the situation in their home country, a language test, or both. Asylum seekers will in most cases do their best to show their true identity, and it is sometimes possible to obtain identification paperwork after leaving the country. But in other situations, the asylum seekers will purposefully change their name or birth date, and maybe even nationality, to get an advantage in their case for asylum.

If the case ends with a rejection, then a new problem arises. One must have valid travel documents to leave Denmark legally, and if the Danish authorities deport someone by force, they also must be sure that the home country will accept the person – there needs to be an arrangement made (“return agreement”) at the political level. The Danish police cannot just put someone on a flight, without identification, and wave goodbye. Therefore, a discussion arises between the Danish authorities and the rejected: can and will the person get themselves a passport or something similar from their home country, possibly with the help of the Return Agency? If not, the authorities can try to do it against the person's will, but this can be a lengthy process, and is not always possible.

“I tried to get travel papers from the embassy, but they declined, because I did not have a passport. So, I asked a recognized church for help, and they reached out on my behalf to get the travel documents, and then I got them.”

- Charles, rejected refugee from Uganda, went home on his own after 8 years

Illness or disability

Refugees Welcome has over the years had many cases where a rejected person was too sick to travel. But as in other areas regarding asylum seekers, such issues are handled separately and can therefore lead to some paradoxical decisions. Someone can get rejected for humanitarian stay because the illness is not considered to be life threatening, and/or because it is assessed that it's possible to get treatment in their home country. But it's not possible for the person to travel back home, because they are too sick to do so – for example, they may be dependent on oxygen to breathe, or suffer dementia to the point where a doctor strongly advises against a long flight. However, this can neither lead to a residence permit due to obstacles to deportation or humanitarian stay.

Negotiations with receiving countries

The home countries can issue temporary travel documents, if they are sure that the person is a citizen of their country: the so-called “laissez-passer.” But there are not many embassies or consulates in Denmark, so it's difficult for rejected applicants to go there in person, which is necessary. But the Return Agency or the police can arrange transportation to the embassy or consulate in other countries if it is with the aim of obtaining identification and travel documents for the person.

PEOPLE IN RETURN POSITION AND HOW THE POLICE JUDGE THE CHANCE OF REMOVAL

	Return position	Limited	Unresolvable
2020	1.072	188	566
2018	1.146	141	673
2017	947	315	437



Embassy of the State of Kuwait | سفارة دولة الكويت
Stockholm | ستوكهولم



Note No: [REDACTED]

The Embassy of the State of Kuwait presents its compliments to the Danish National Police, and has the honour to refer to your note (File no. 1-38-[REDACTED] dated on [REDACTED] regarding the issuance of a Travel Document in favour of:

Mr. [REDACTED]

The Embassy of the State of Kuwait regrets to inform the Danish National Police that such Travel Documents are for the benefit of Kuwaiti citizens only. The State of Kuwait does not take responsibility in matters concerning anyone who resided, studied or was born in Kuwait and not bearing the Kuwaiti citizenship, therefore the requested Travel document can not be issued for the above mentioned person.

The Embassy of the State of Kuwait avails itself of this opportunity to the Danish National Police the assurances of its highest consideration

Stockholm, [REDACTED]



To:
Danish National Police



Reply from the Kuwait embassy in a Bidoon case (Bidoons are not recognized as citizens in Kuwait)

The process of identifying a foreigner can be extremely slow when it comes to some countries. If the foreigner doesn't have an ID, and has, for example, travelled out of the country at a time when the person hasn't been registered in the home country's system, or there is no trustworthy system to register citizens, then the home country's authorities might have to go to the village which the foreigner claims to come from and get the information confirmed. The home countries can also be reluctant to do this for several other reasons.

First, if the person does not have any ID, the home country can't be sure that the person really is their citizen. Like Denmark, they don't have an interest in opening their borders to just anyone and issuing papers to an unknown person. The person can also be unwanted given their profile, for example if they belong to an ethnic or religious minority, are homosexual, or politically active.

Additionally, most of the relevant countries have no interest in accepting a person who is unwanted in Denmark. As discussed in chapter 4 under "Sustainable return," there are a series of problems for people who are sent home after a long time in Europe. And these countries already house a lot of citizens who are fighting to survive. Refugees and migrants who send money home (remittances) are a significant part of many developing countries' economy.

"(...) in Kabul, if you are left on the street without nothing, without cash, then there is a big risk that you will end up in the hands of the wrong people, and it ends up being a big security threat for the government."

- Officer from Danish National Police, from AdMiGov, Kalir et al. 2021 (B)

Certain countries have a rule against accepting their own citizens if forcefully deported. Iran is the clearest example of this. If an Iranian goes to the embassy and asks to come home, it is almost always possible. But if the police do the same on the person's behalf, the answer is no. Other countries have had the same policies in place but have during some periods been more accepting, for example Iraq. And there are some countries which have had the same practice, but without saying it directly. Some countries have the tactic that they don't respond and are very hard to reach. In this way, the cases can sit idle for many years, even though the foreigner collaborates on the deportation.

Though the police, the Return Agency and Immigration Service know that many countries block things in this way, they refuse to give the foreigner the benefit. Even after 10 years of trying to get papers and an agreement with the home country, the authorities will still not conclude that the case is hopeless and thereby let the person have a temporary residence permit.

The Danish police and the Return Agency don't have much by way of threats, so now there is a new political strategy, actively using development aid and diplomacy to push

removal agreements through. This is also done at the EU level: see chapter 7, page 92, 'European cooperation on refugees'.

In 2020, a Migration Task Force was established in collaboration between the Ministry of Immigration and Integration and the Ministry of Foreign Affairs. Two new positions were established: Ambassador of Migration and Ambassador of Deportations. It was initially presented as an element in the plan concerning the reception centre outside of Europe, but the deportations are also one of the tasks.

Before that, deportation attachées were appointed at the Danish embassies in Kabul, Teheran and Nairobi. There is now a clear political will to use development aid to pressure home countries to receive their own citizens. The work is, by the way, carried out for money that is included in the state budgets under development programs. Resources from Denmark can also be used to increase control in the receiving countries, for example in the form of biometric equipment and police work, and thereby help to strengthen oppressive regimes rather than helping the general population.

This is approaching a direct trade in people, as when Birthe Rønn Hornbech as integration minister in 2009 promised Iraq 100 million DKK in reconstruction support in exchange for accepting 282 rejected Iraqis from Denmark. The political party Radikale calculated that an Iraqi thereby cost 350,000 DKK to send home – and it ended with even fewer actually being sent out. After some time, the Iraqi authorities stopped receiving rejected asylum seekers sent home via forceful deportation.

Uganda has, until now, refused to issue travel documents to rejected asylum seekers against their will, or if the consulate believed that the person could be in danger in Uganda. But now papers are suddenly issued without any questions on request from the Return Agency. Uganda receives a fairly large amount of development aid from Denmark.

There is also a significant human rights element involved in negotiating with dictators who have been proven to commit abuses towards their own people. Denmark has twice invited a delegation from Sudan to interview rejected Sudanese asylum seekers while Omar al-Bashir was in power and was internationally accused of genocide in Darfur. Today, Denmark is revoking Syrian residence permits, but so far not negotiating to forcefully send them back into the arms of Assad.

"We work only on the operative level. But the border between that and the political level, haha... yes, there is no border! Because everything is political, when you work with deportations and different countries in the world, so everything is based on politics."

- Officer from Danish National Police, from AdMiGov, Kalir et al. 2021 (B)

THE EL-ABED FAMILY, THE WEST BANK / IRAQ

Ibrahim and Zara sought asylum in Denmark in 2001. He is a stateless Palestinian from the West Bank. She is Turkmenistani from North Iraq and educated as a microbiologist. They were married in Iraq, where Ibrahim earned his degree as a biochemist, but they could not live together in either of the two countries, as neither one would accept the foreign spouse.

Their asylum applications were rejected, and they ended up living nearly 11 years as rejected in the asylum system. Their two daughters are born and raised in Denmark. During the period when rejected families were allowed to live outside the centres, they lived in a little house, and the rest of the time in the asylum centres.

Over the years, they were called in often for meetings with the police, who did not want to recognize that deportation was impossible because neither of the two countries wanted to accept the whole family. In the end, Refugees Welcome succeeded in getting Zara, and thereby her whole family, a residence permit on humanitarian grounds in 2011, because she had developed a deep depression due to stress, and needed special medicine. Their youngest daughter also started to develop an eating disorder.

Later, they were successful in getting a more secure basis of residence for the family based on the best interests of the child (§ 9 c (1)) and Ibrahim was one of the few to receive permanent residence after only 4 years legal residence, when he fulfilled all criteria around the Danish language, employment, being debt-free, etc. Zara has been in rehabilitation but is unfortunately still not in a place where she can work, due to the depression that started under the many years of uncertainty. The two daughters are doing very well in the education system.

The family should have received residency because of obstacles to deportation many years earlier, but the obstacles have never been admitted. Zara was subjected to an unnecessary mental breakdown because of the uncertainty. She could have been a highly skilled participant in the Danish labour market, instead of now being forced to face an early pension.

Negotiations and return agreements are often secret and it is difficult for the public to obtain insight. In particular, the agreement with Somalia has been completely obscured, allegedly at the request of the Somali authorities, but the press has passed on rather outspoken and directly contradictory information from various representatives for Somalia. The same was true of the agreement with Iraq in effect from 2009 to 2011: one Iraqi minister confirmed an undefined agreement while another denied there was an agreement. The book “The Rejected” by Anton and Esben Geist from 2011 discloses the entire course of how bargains were being made to return the Iraqis.

Special situations for groups of rejected asylum seekers over the years

Asylum seekers come from different countries at different times, and so the same is true for those who are rejected. During the last decades there have been larger groups from Kosovo, Iraq and Somalia, due to the fact that deportations were impossible because the humanitarian situation in these three countries was very uncertain, and because these countries would not enter into a return agreement with Denmark. The UN eventually opened to forced deportations to Kosovo, followed by Iraq for a few years, and Somalia for a smaller number with unclear conditions.

The situation with Iran is unchanged: the country has a firm policy of not accepting citizens under forced deportation and is not dependent on Danish funds in any way.

Several countries have rules that make it impossible to deport stateless people. For example, Palestinians from Gaza are not allowed to enter via Egypt; to get to the West Bank one must enter via Israel. The ethnic group Bidoons are not recognized as citizens of Kuwait, even if they come from there – the same was true for Kurds from Syria before the war. For many years, Palestinians could not be sent back to Lebanon even if they were born and raised there. A person may even have left one state and in the meantime a new state has emerged; it happened for many when the Soviet Union collapsed.

In 2017, the Swedish government asked Professor Anna Lundberg to draft a report on residence permits due to obstacles to deportation (Y). Lundberg made the following recommendations, among others, which are also relevant for Denmark:

- Take into account obstacles to deportation already when deciding on asylum.
- The legal position of stateless persons should be secured better and more systematically in relation to deportation.

Tolerated Stay

Being on Tolerated Stay means that a person has lost their residence permit (typically due to expulsion as part of a criminal sentence) or has been excluded from obtaining asylum (due to committing abuse or other criminal acts in his home country falling under an article in The Refugee Convention (F1)) but the Danish authorities have assessed that it would be too dangerous for the person to be sent back. Thus, only refugees end up on Tolerated Stay, as other foreigners sentenced to expulsion can be sent out.

For this group, there is a completely different kind of obstacles to deportation, which is completely outside a person's own influence, and cannot be influenced by any amount of diplomatic pressure or negotiations on development aid from Denmark's side. The countries in these cases will often systematically apply torture and use the death penalty.

Therefore, it is very difficult to see the purpose of putting these people under Motivational Measures. What should they be motivated to do? The Danish authorities have decided that they cannot be deported. The duty to report should be sufficient to know whether someone is still residing in the country. None the less, different ministers have been very concerned that people on Tolerated Stay are unwanted in the country, and eager to make sure they live under as intolerable conditions as possible. The system is also very preoccupied with knowing exactly where they are, even though they could just go underground – which very few do, however.

“The goal is in fact, that people on Tolerated Stay should not maintain a normal family life. We should have control over them, they should be at Kærshovedgård, and they should live their lives there,” said Inger Støjberg, when the centre opened in 2016.

People on Tolerated Stay do not receive any social benefits, are not allowed to work, and do not have access to education. Most are required to live at Kærshovedgård, and almost all have an obligation to report. Many of them have families in Denmark, which they are unable to be with due to the duties to reside and report. A few have permission to live together with their families.

Tolerated Stay can actually be a life sentence. The Danish High Court has, in two cases from 2012 and 2017, decided that the duty to reside is disproportionate after about 4 years. After the last ruling from 2017, the duty to reside has been removed in a number of cases, but only after years of work from dedicated lawyers. The reporting obligation is almost always maintained. Despite the duty to reside being lifted, they do not get their residency permits back – only in very few cases has an expulsion order been lifted, and only in cases of minor punishments and after many years' wait. If the duty to reside is lifted, one can get permission to live with one's family, but can still be required to report outside the centre. One still has no possibility to build a normal life, as work and study is not allowed, and one doesn't have a right to social benefits. Moreover, one doesn't have a right to healthcare if one moves from the centre.

More and more end up under Tolerated Stay, because even smaller criminal offences with sentences of 6-8 months lead to an expulsion order, and the attachment to Denmark weighs less in the assessment than it did earlier in time. **In 2008, there were 18 people on Tolerated Stay, and in 2020 the number had increased to 128.** About one fourth have been declined asylum due to suspicions of war crimes and the like, while the majority of the others have served sentences for drugs, rape, violence, etc. but cannot be expelled.

As of 31 December 2020, there were a total of 128 people on Tolerated Stay. 71 of them had the duty to reside and report in a particular place, most of them at a deportation centre. But the 71 people also includes people that are in jail, and therefore cannot comply with their duty to reside and report. 17 of the 128 people have had their duty to reside lifted. However, all those 17 have a duty to report. This can be at the local police station for instance. 6 of the 128 people are accommodated at a special place because of their behaviour or mental illness or drug abuse (NN).



Electronic access key and ID card

LAURENT, WEST AFRICA

Laurent fled with bullets literally flying past his ears and a bullet in his leg – together with another young man, he boarded a ship with a Norwegian captain, who was busy leaving the port of his hometown and the extreme murder and attacks that were happening in connection with an election. The ship's destination happened to be Denmark, a place which Laurent had never heard about.

After many weeks of travel on the seas, they arrived in Denmark in the year 2000, where Laurent immediately sought asylum but began his stay with 6 weeks in Ellebæk. Despite a fairly strong asylum case, he was rejected. After the rejection, he was terrified of being sent back to his home country, where his dad was a politician and belonged to the side that had lost. Therefore, he said that he was in fact from the neighbouring country – but this was looked into and dismissed. His original story was true, but there was no proof, given that he arrived in Denmark without any documentation, and his home country's consulate did not want to send him any. Only recently has he been offered a language test to prove his background.

He has since tried his luck in Sweden, Germany and France, but each time he has been sent back due to his fingerprints and the Dublin Agreement. He has also twice unsuccessfully sought a work permit from the Immigration Service, given that he played for a Danish football club for a period, which wanted to give him a contract – later he taught children dance, and was offered payment for three sessions a week.

After almost 11 years in Denmark, he is now in his third year living at Kærshovedgård and is going crazy over it. If he is not successful in getting his asylum case reopened or can prove that his home country won't take him, his only solution is to live illegally in another country where he may be able to get papers some day in the future. He can under no circumstances return to his home country, where he would be in even greater danger today than the day he left.

An incorrectly decided asylum case closes all doors – because of the Dublin Agreement, no other countries will reopen the case, and he cannot get permission to work without first returning home to the place where his life is in danger. The case shows the need to reopen old asylum cases, allow applications for other forms of residency, as well as manage the collaboration requirement and obstacles to deportation less rigidly.

6. ARE ALL REJECTIONS CORRECT?

“One must respect a rejection and return home, when one has had one’s asylum case thoroughly assessed in several different instances.” All politicians can agree on this answer – from Nye Borgerlige to Enhedslisten. Unfortunately, it’s not that simple. Asylum cases are complicated to decide on, and a lot depends on personal assessments – it’s not an exact science.

Weaknesses in the asylum process and reopenings

As I have described in the report “Well-founded Fear – credibility and risk assessment in Danish asylum cases” from 2020, there is a large amount of uncertainty and too much arbitrariness built into the Danish asylum process. Most rejections are justified with lacking credibility, based on a tendency to biased assessment where the starting point is that everyone is lying. The caseworkers are not properly educated, and there is no quality control or education of the interpreters, which all of the information goes through. Therefore, one can’t rule out that some rejections may be wrong.

The final decision sits with the Refugee Appeals Board which is always described as “independent.” The board was originally founded as an expert panel with 7 people, but has since been cut back to 3 people, where none of the 3 has a professional knowledge of the subject. Two of the members are neutral: one lawyer and one judge. But the third is an employee from the Ministry of Immigration and Integration, and thereby the Refugee Appeals Board is not independent. The ministry is a part of Mette Frederiksen’s government, which has declared a goal of “zero refugees in Denmark.”

If one compares the decisions in Denmark and those in neighbouring countries or the EU average, it is clear that there is a great deal of rejected asylum seekers in Danish deportation centres who would have been granted asylum had they sought it in another country. They therefore have good reasons not to respect the refusal. Moreover, it does happen that a dedicated lawyer gets a case reopened and supported after many years, also despite the fact that the basic motive for asylum is the same.

Finally, there is the issue that the asylum process only considers the aspects that fall under the conventions’ definitions of risk. But one can be in imminent danger for other reasons, such as illness, hunger, family conflicts, or threats from criminal networks. The anxiety that a person feels is not always totally rational or based on facts that can be proven. The subjective fear can be intense, despite the objective grounds not appearing strong enough.

Denmark walks alone

In a number of areas, Denmark has a significantly different line than many other countries. For example, we recognize very few people from Africa who seek asylum because they are LGBTQ+. We also don't give all people from the Al-Tash camp residency (Iranians, who are stranded in a camp in Iraq after the war between the two countries). We have only given asylum to very few of the Afghans who worked as interpreters for the western forces in Afghanistan.

We only give 1-year or 2-year long residence permits and have started a new wave of withdrawing Syrian refugees' permits as the first country in Europe. And the new plan to move handling of asylum cases to Africa and let refugees stay there is also not met with understanding by the rest of the EU. The Danish requirements to obtain citizenship are some of the toughest in the whole world but were still tightened again recently.

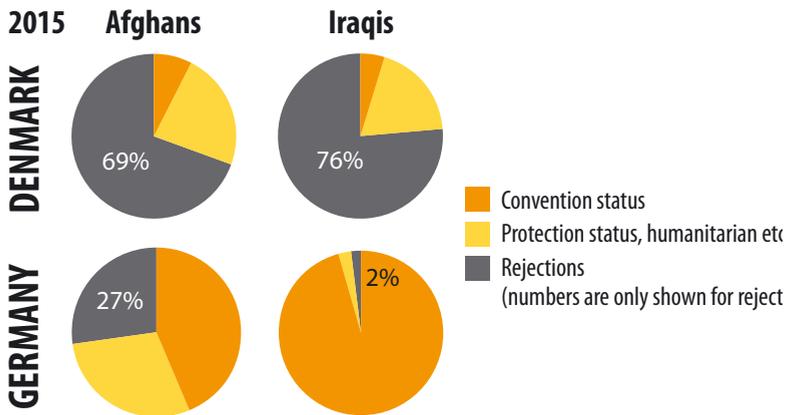
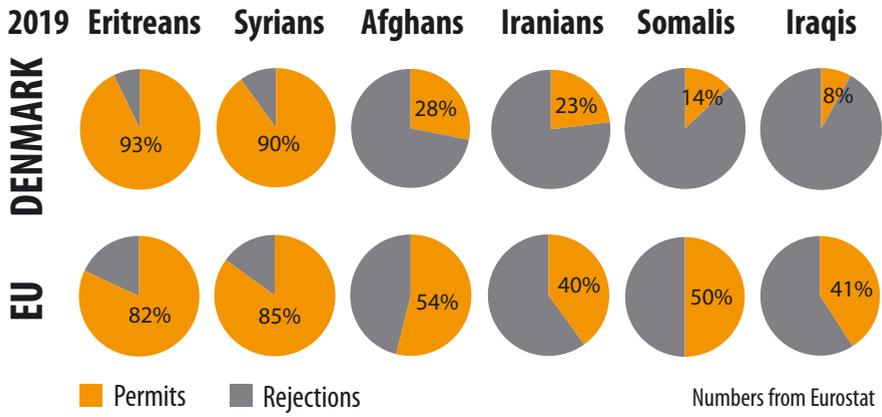
Criticism of Denmark from the United Nations and Europe

Denmark has many times been criticized for its concrete decisions from the United Nations human rights committees when lawyers or organisations have complained about them. Earlier, the Refugee Appeals Board would reverse a decision if the United Nations disagreed. This doesn't happen any longer; now the case gets reopened, but often ends with another refusal.

Denmark has also received pretty harsh criticism on an overall level from both the United Nations and Europe. The European Committee for the Prevention of Torture released in 2020 a report about inhumane conditions in Ellebæk (see page 41) but has also over the years criticized that we undertake too few torture examinations – something which can have an impact on the asylum assessment.

UNHCR often vocalizes criticism of Denmark's general assessment of the security situation in the different countries – latest Somalia and Damascus in Syria, but also after the Iraq war. According to UNHCR, the short, temporary residency permits, the tough requirements to obtain permanent residency and citizenship and the constant risk of having a residency permit revoked are not in line with the Refugee Convention (Z).

DIFFERENCES IN ASYLUM DECISIONS, DENMARK AND EU/GERMANY (PERCENT)



ARMAN AND ANNA, ARMENIA

The couple was wed against their parents' wishes when Anna was only 17 years old. Arman had been a chauffeur for a mafia-type group and had been a witness to a murder. He was also almost murdered himself and had to flee to Russia. He was put in jail and delivered to the Armenian police, where he was convicted for deserting from the army. He was able to escape from the prison's sick ward and he and Anna went to Germany and onward to Denmark in 2005.

Arman left the country using his brother's passport, but Anna already had a visa to Italy – therefore, Denmark dismissed their asylum case and asked Italy to take over, under the Dublin rules. Several years of struggle played out about the Dublin case. The couple did not want to go to Italy where the mafia had connections to the Armenian group. Amnesty's doctors group worked on a torture report on Arman, which supported his explanation about abuse in both Armenia and Russia.

The couple had a daughter while staying in Denmark. They sought asylum in Sweden where the case was opened but rejected. Arman was forcefully deported back to Armenia from Sweden, but Anna and her daughter went underground in Denmark. They did not hear anything from Arman before he suddenly showed up in Sandholm eight months later. He had memory loss and appeared totally changed, remembering only parts of his stay in a Russian prison.

In 2020, the Immigration Service decided to open the couple's asylum case. Arman had a difficult time communicating clearly, and the couple was rejected. In the meantime, Refugees Welcome had sought a temporary humanitarian stay given Arman's damages after torture, and that gave them a residence permit. When the asylum case was handled by the Refugee Appeals Board in 2013, they were finally offered asylum. At this point, eight years had passed since they arrived in Denmark and their daughter was seven years old.

Today, the couple is divorced but see each other frequently. Anna works full time at a nursing home. Arman has received an early pension due to his psychological problems.

The family was thrown around between three countries in endless Dublin-negotiations and went through terrible sufferings during that time. Denmark should have chosen to open the case when Anna gave birth to her daughter here. It was only due to lucky circumstances and help from good people that the family was reunited after Arman's deportation. It required a big effort on the part of Refugees Welcome to get Immigration Service to house them at the same asylum centre, and to get their asylum case reopened together.

7. EUROPEAN PERSPECTIVES AND OTHER COUNTRIES' STRATEGIES

Denmark is, because of special opt-outs, not a part of the EU's refugee and migration politics. But we have negotiated a number of parallel agreements and have been a part of the Dublin agreement since the beginning. Denmark also sends caseworkers to other countries when extra hands are needed to process asylum cases.

EU'S POLICIES AND THE NEW PACT

The number of asylum seekers is extremely unevenly distributed among the European countries. In 2020, Germany received 86% of all new asylum seekers, Sweden 13%, and Denmark less than 1%. The countries with outer borders typically have high percentages: Greece, Spain and Italy. France has also experienced a large increase in recent years. Denmark has never received a bigger portion than what our size within Europe entitles us to, but Sweden has done so over many years. The number of asylum seekers in Denmark is at its lowest rate ever, and we even stopped receiving our quota of resettlement refugees several years ago.

If the number of refugees was more evenly distributed, and more predictable each year, the EU could accept a much larger number of refugees. Therefore, the EU has tried to negotiate a system of division in place. But it has been difficult – and Denmark has refused to participate.

What one country does, has an impact on the other countries in Europe. When Hungary, for example, makes a law that in practice allows *refoulement* (to send asylum seekers back to a country where they can be at risk), all other countries in the Dublin agreement cannot return people to Hungary anymore. When Denmark, as the only country, denies residence permits to Syrians, other countries can be forced to give them protection.

ASYLUM SEEKERS IN DENMARK, SWEDEN AND GERMANY

Per 1,000 inhabitants: Denmark 0.26, Sweden 1.26, Germany 1.23 (2020)

Denmark thus receives one asylum seeker for every six received by a neighbouring country.

	2016	2017	2018	2019	2020
Denmark	6,266	3,500	3,559	2,716	1,515
Sweden	28,939	25,666	21,502	21,958	12,991
Germany	722,370	198,317	161,931	142,509	102,581

The new EU Pact on Asylum and Migration opens up for further use of detention and border control, but it also recommends a mainstreaming of the criteria for giving protection. It suggests easier access for refugees to move between member states and to obtain a permanent residency after 3 years, which is very far from the Danish requirement of 8 years stay.

The European Commission has many times advocated for long-term and solidarity solutions, but usually these plans never get past the European Council.

The Council of Europe Commissioner for Human Rights is accusing the member states of being responsible for the many deaths and cases of abuse which refugees and migrants are exposed to on their journeys. The commissioner recommends that all countries in Europe make agreements on distribution, increase the rescue efforts on the coasts of Europe, make sure that everybody can get ashore immediately, collaborate with the NGOs, and provide safe and legal access ways to Europe (Æ).

Denmark is in favour of spending increased amounts of money on border control and having more options for denied admission at the border and detention, but has refused any collaboration on distribution. Denmark is also not among those countries offering to accept migrants who have been rescued by ships on the high seas, or some of the thousands of children and vulnerable people stranded on the Greek islands and on the border to Croatia under horrible conditions. With the latest plan from the Social Democrats of establishing asylum centres in third countries, Denmark is moving even further away from common European solutions.

EUROPEAN COOPERATION ON REFUGEES

Unfortunately, European cooperation functions best when it comes to deterrence and pushbacks. EU-funds are increasingly allocated to Frontex in order to guard the outer borders. State rescue operations in the Mediterranean and the Aegean Sea have been cancelled, and the rescue activities of the NGO's are completely blocked by incrimination of their humanitarian work all over Europe. Frontex as well as Greek coast guards are mainly busy pushing boats with desperate refugees and migrants back to Libya or Turkey. Both Libya and Turkey receive large amounts of euros to keep refugees on their own territory, no matter how many human rights violations they are subjected to. Even though fewer people arrive in Europe, the individual risk of drowning is 4 times higher today than 5 years ago.

When people have finally arrived in Europe, co-operation is not so efficient. Large vessels, following international law in rescuing people on the ocean, must often sail for months with exhausted people before being allowed to put to shore. Negotiations between states about Dublin transfers drag on for months, and for decades the frontier states in the south have been left with all reception and registrations of newcomers.

Greece has made their own asylum procedure hopeless, virtually on purpose, so that the courts of other countries could not return refugees in accordance with the Dublin agreement.

Refugees who have been given asylum have hardly any possibilities for moving to another EU-country. Many want to, because of family, partners, language and so on, and are surprised that it is so difficult.

Some of the bigger countries, including Great Britain, cooperate on deporting people who have been refused asylum. This is a matter of practicalities, like chartering a plane together and collecting deportees in other countries along the way. Even for big countries with many deportees, to make a large passenger flight land different places in Europe to collect them, has turned out to be quite expensive. There are often far fewer than anticipated because lawyers and organisations may often be able to stop deportations at the last minute. As mentioned before, Denmark usually employs common airliners with police guards.

Denmark has cooperated informally with a group of like-minded countries, including The Netherlands, Belgium, Switzerland, UK, Germany, France, Norway and Australia (“The Brussels Group”). The target being to share experiences and promote common interests related to deportations to, for example, Iraq. The Brussels Group has now been transformed to EURINT (European Integrated Return Management).

STRATEGIES FOR DEPORTEES IN OTHER COUNTRIES

The rising number of deportees is a matter of concern in the whole of the EU and work is being done to find more efficient ways of returning them. This has resulted in the EU Return Directive. All in all, about half a million people in the EU are told to leave every year. Only about 30% of them have been registered as having left.

The different countries in Europe have very dissimilar strategies concerning people who have either been denied asylum or just reside illegally in the country. The Danish policy is quite unique in totally lacking possibilities for gaining legal residence in other ways or over time. It would probably be difficult to find deportees in other countries who have been in exit position for 20 years. The Danish problem is mainly self-created and a result of lack of pragmatism.

Sweden has been receiving 5-10 times as many asylum seekers per inhabitant as Denmark for years. Logically, the number of deportees is far higher, even though a larger percentage get asylum than in Denmark, and impediments to deportation and humanitarian considerations are recognized to a higher degree. Some years ago, a large group of young Afghans were allowed to stay if they were studying, as the result of a controversial ad hoc act. But since 2016 Sweden has in many respects also implemented stricter rules that are rather like the Danish ones.

Swedish law includes the possibility of “changing lanes”. Deportees may apply for legal residency if they have an employment contract and meet other requirements. This is a bit like the new possibilities implemented in Denmark for refugees, whose residence permit has been revoked. But Swedish rules include those who have never had legal residence.

Since the restrictions implemented in 2016 deportees have no claim to support (housing, food and economic assistance), excepting families and persons suffering from an illness. Swedish deportation centres are only meant for short stays just before deportation. On the other hand, it is easier to be allowed to stay privately, including during the asylum procedure, although not in socially vulnerable residential areas. Undocumented people have obtained better rights than in Denmark many years ago, for example access to health services and school. After 4 years, those who get asylum can have Swedish citizenship with very modest requirements, which in turn leads to fewer deportations.

In **Norway** it has earlier been possible to reopen an asylum case after 5 years, and children’s rights have had higher priority. However, for the last 10 years Norway has nearly copied Danish asylum policies and has also begun withdrawing the residence permits for Somali refugees.

Germany has a special status called “Duldung” for people who have been denied asylum, but cannot be deported for judicial, practical, health or humanitarian reasons. It is a temporary residence permit with limited rights obliging the refugee to cooperate on repatriation. They may take courses and educate themselves and if complying with current regulations, may apply for a working permit. They also receive economic support, albeit the amount is small. However, they may not move from one constituent state to another or travel abroad. If a working permit is obtained, it is possible to obtain a real residence permit later.

After the war in Ex-Yugoslavia several hundred thousand persons were deported from Germany, and another large group returned with a program of support. A remaining group could not be repatriated. Several reforms of the application procedure were introduced to help those who had been in Germany for many years and were well integrated. Since 2011 young people and teenagers could get a residence permit if they had lived in the country for 6 years and were integrated. Until 2016 all Syrian refugees received permanent residence at once, and everyone with a temporary residence permit is automatically granted a permanent residency after 5 years.

ALAIN, SENEGAL

Alain came to France on a tourist visa in 2009 but dreamt of living in Denmark where his sister lives. He therefore did not return but applied for asylum in Denmark although he had no problems in Senegal. Most of his family live in Denmark and France and he just felt more at home in Europe. Not surprisingly, he was refused asylum, but could not be deported without a valid passport, and the Senegalese embassy in Germany was not very co-operative as to the Danish police.

The case remained dormant for several years. Alain built a large network of friends in Copenhagen and stayed as little as possible at the asylum centre. Over the years he was registered in Sandholm and Avnstrup and was removed to Sjælsmark, when it became a deportation centre.

In the winter of 2016-2017 many in his situation were told to move to deportation centre Kærshovedgård because families with children were to be moved to Sjælsmark. It would have been terrible for him to move so far from his friends and his life in Copenhagen. One of his good friends told him to pack his belongings, bought a train ticket, withdrew some euros and put him on a train to France where he had a brother and a sister.

Family and friends helped him through the first period and after 2 years, he moved in with a French girl and applied for residence permit. In France it is not so difficult as in Denmark to get a residence permit, provided the migrant speaks French, has a permanent address and a person vouching for him. Today he has a ten-year residence permit, his own apartment and a full-time job.

Knowing he would not get a visa to Europe for many years kept Alain from leaving voluntarily, hence an entry ban may have the opposite effect of that intended. The French rules made a legalization and a normal life possible, whereas the Danish rules would have meant the aggravation of mental problems in a deportation centre. The case is also an example of how other countries end up having to receive those who have been refused a residence permit in Denmark.

France has 4 categories of foreigners who are protected against deportation:

1. Those who have arrived before the age of 13.
2. Those who have been legally living in France for 10 years and are married to French citizens.
3. Those who have lived legally in France for 10 years and are the parents of a French citizen.
4. Those who have lived in France for 20 years.

Besides, there have been several examples of different forms of amnesty over the past few years, for example for undocumented migrants with school age children, or for undocumented migrants with working permits supported by employers or trade unions. Access to family reunification is generally easier compared to Denmark as is access to permanent residence and citizenship. Undocumented migrants who have parented a French child, or got married or registered as partner with a French citizen may get a temporary residence card, which may later be extended to 10 years.

In 2019 a Danish journalist from TV2 visited a tent camp in France and met about 60 persons whose application had been turned down and who had left Kærshovedgård. They were called the Danish colony and consisted of 6 large families with children. Some Afghans and Somalis had received residence permit in France after being refused in Denmark, contrary to Dublin rules. The same goes for Italy.

Spain and Portugal also have less strict asylum procedures and have repeatedly granted amnesty to people who have stayed in the country for a long period and are able to support themselves. It is also easier to gain citizenship in the two countries.

“Many rejected asylum applicants who disappear from the Danish system turn up in the camps in Paris and Calais, where they live in wretched conditions. Some have succeeded in getting asylum in France and later French citizenship. Others, who have been rejected in Denmark, find work in the French, Spanish or Italian service, building or agricultural sectors, after which they can get residence permits or amnesty.”

- Carolina Sanchez Boe, researcher, Aarhus University and Université de Paris

THE IDEA OF ASYLUM AND RECEPTION CENTRES OUTSIDE EU

At the beginning of 2021, the Frederiksen government introduced a bill about ending asylum processing and treatment of residence applications for refugees on Danish soil. The intention is extreme and if put in practice constitutes the most fundamental change in Danish asylum and refugee politics since 1951. The bill is unprecise as well as unrealistic.

The Social Democrats have for four years spoken of asylum camps outside of Denmark to repair a “dysfunctional asylum system”. According to the party, this solution is more humane and more fair. One might wonder why all humanitarian organisations, not least UNHCR, have warned that this will have incalculable negative consequences and may undermine the whole international refugee system. For now, it appears to be difficult to find a third country ready to assume responsibility for Denmark’s refugees.

The problems and expenses involved in having a distant country lodging and processing on “contract” and fulfilling Denmark’s obligations are immeasurable. We have seen the horror stories from the Australian experiment on the island Nauru in the Pacific. In addition, the plan does not take into account the question of rights for those who are given asylum and are to remain in the third country.

The plan demands that the authorities are given increased powers to detain people preventively in Denmark to ensure that they can be shooed onto the planes that are to deport them to an unnamed third country. Already, many people go underground to avoid a hopeless and thoroughly controlled existence in deportation centres like Kærshovedgård. If all asylum seekers risk to be forced out of Europe, this phenomenon will escalate. Finally, people will lose faith in the usefulness of the asylum system and will find their own solutions. Hence the plan will produce more undocumented refugees in Europe (Å).

An old idea

The idea of creating centres outside of Europe is far from new. The Liberal Alliance and the Danish People’s Party have suggested it before the Social Democrats, but the bill has its roots in the governments of Anders Fogh and Tony Blair and further back to the Schlüter government. In 1986 the Schlüter government launched a new strategy concerning a “World co-operation on refugees” in UN’s Third Committee. The proposal contained among other things UN-controlled “refugee centres”, from which people could apply for asylum in Europe. These centres should take over the asylum procedures in each country. The proposal was presented as more humane but aimed at changing the whole system of refugee protection by removing the connection between the territory of a country and its responsibility for providing protection. The proposal was turned down in the UN and severely criticized by several countries. But the idea resurfaced in 1993 when the Dutch Minister of Justice, Aad Kosto relaunched it.

The VK-government, led by Anders Fogh, with parliamentary support from the Danish People’s Party, tried to revitalize the idea once more in 2001. “Reception in neighbouring areas” became a buzzword repeated at many press conferences, and the Danish chairmanship for EU cooperated closely with Great Britain and The Netherlands to make the proposal official EU policy.

ERPUM

Another old idea, which several EU countries have worked hard for, but in vain, is the idea of a centre to house unaccompanied minors in Kabul, Afghanistan, while working to track their families or giving them a place to stay if the tracking proved impossible. The pilot project “ERPUM” ran from 2011-2014, as a cooperation between 6 EU countries. The project coordinator was Sweden, with Norway, Great Britain, The Netherlands, Denmark and Belgium as participants. Like Belgium, Denmark had the status of observer, even though the Danes were deeply involved.

The project was not a success and had to be discarded, as there was never struck a deal with the Afghan government, nor was the tracking of family members possible, and a suitable location for creating a centre could not be found. Hence not a single unaccompanied minor was deported during the time of the project. Still – after the failed project – the government of Lars Løkke wrote among 44 new proposals for the asylum policy: “The government will work to create reception- and humanitarian facilities for unaccompanied minors in their home countries, in order to return a number of minors.”



Tent camp in Næstved 2016

8. THE CONSEQUENCES OF THE PRESENT DANISH POLICY

As described in the first chapters, a policy of zero tolerance towards rejected asylum seekers has been tried for 38 years. The residence conditions have been continually and consciously worsened, except for a short period with a certain alleviation for families from 2009 to 2013. The chance of getting a residence permit for humanitarian reasons or because of obstacles to deportation have been continually diminished. Especially the creation of deportation centres was a radical step in a less humanitarian direction, and the latest deterioration consists in withdrawing the residence permits for as many as possible.

In chapter 6 I described why it is meaningless to distinguish as if black and white between those who get asylum and those who are denied. There are often little things that determine if a person ends up in the first group or the second, and a person denied asylum may eventually get it after many years.

This chapter takes a closer look at the present policy and its many negative costs and consequences.

In chapter 9 I shall examine the two political theses behind the present policy and show that neither research, the experiences of refugees nor statistics indicate that the theses are correct.

Chapter 10 contains a long list of recommendations based on experience and pragmatic solutions.

“Foreigners sentenced for serious crimes must go home. The same applies to asylum seekers, who after a thorough scrutiny of their cases are denied asylum. This is the task of the new Return Agency. They must have a firm hand in the back towards the airport.”

- Mattias Tesfaye, Minister of Immigration and Integration, 2020

“In the experience of the Red Cross, motivational measures do not motivate rejected asylum seekers to go home. This is our experience both from our daily work at asylum centres since 1984 and from the years when the Red Cross was responsible for return counselling.”

- Red Cross asylum department 2021

“(...) The motivational measures have no effect on the group of persons from Iraq who have been denied asylum. (...) The picture remains the same in relation to other nationalities like Iran and Somalia.”

– Hans-Viggo Jensen, head of the Danish National Police's aliens section, 2007

“Sanctions to compel people to return do not only create repugnance and suffering in those denied asylum, but also diminish sustainability in the long run, and besides, have no effect when it comes to encouraging repatriation.”

– Zachary Whyte, researcher, DIIS, in a report requested by the government in 2013 (P)

ABOUT THE RETURN AGENCY AND THE REPATRIATION ACT

Excluding other aspects of the refugee policy and focusing only on the deportees and the risk of ending up as a rejected asylum seeker, then Social Democratic governments have most actively worsened the conditions, partly supported by the Radicals, SF and the Red Green Alliance. The decision to create special deportation centres, and later the bill which today is used to retract the asylum status of the Syrians, took place under the government of Helle Thorning Schmidt. The creation of the Return Agency and the introduction of the Repatriation Act have taken place under Mette Frederiksen's government. Finally, the bill introduced by the Social Democrats in 2021 about removing the whole asylum procedure to a third country outside of Europe is the most extreme step in this area since Denmark signed the UN Refugee Convention in 1951.

The Return Agency

From August 2020 all work with asylum seekers who have been refused asylum was turned over to a new administration, which was established under the Ministry of Integration. The duty to report, talks about cooperation, preparation of travel documents, embassy meetings, motivational measures (among these detention) and so on have been assigned to the new administration. These were earlier police tasks, but now the police are only involved when a person refuses to cooperate and must be deported by force. The earliest registration of an asylum seeker in Sandholm is still a police task.

“A firmer hand is needed when deportees are to be sent home. We have paid the lawyers and interpreters for the asylum seeker. After a thorough process they have been refused – and in the last resort by an independent board. Then people have to jump on the plane home. There is no free immigration to Denmark. That is why we now give the Return Agency more muscle.”

– Mattias Tesfaye, Minister of Immigration and Integration 2020

The economy indicates that Tesfaye is serious when he talks of constant surveillance of deportees, giving them a “firm hand in the back”. The 250 employees are to take care of the approximately 1,000 persons who are to be returned. That leaves only 4 cases per employee. In comparison a municipal social worker in charge of children’s cases had a case load of 33 in 2019. In other places in the system there is a serious lack of employees, despite a historically low number of asylum seekers: The Immigration Appeals Board has a waiting time of up to 2 years which has been criticized by the Ombudsman. Hence it seems that the capacity of the new administration is exaggerated.

It can be concluded that the police have not been very successful when it comes to sending deportees home, and the relations between the deportee and the police officer responsible for the case was often extremely bad. Cases were often left unresolved for years until suddenly brought forward from the load of cases. Rejected asylum seekers were detained in Ellebæk for months and threatened with deportation and then released again. The judgement of the individual police officer as to whether the person “cooperated in being sent home” was often very unclear and biased.

It is a positive step that, so far, the Return Agency has employed social workers and criminologists as case workers with profiles that may lead to better dialogues with persons refused asylum. According to the director of the agency, Claes Nilas, the new employees should relate to the persons refused asylum and speak about the situation in a new way. However, until now, they have only been given two brief courses in “The Good Dialogue” and “Conflict Management”. It is also to be feared that the case workers in the Return Agency cannot be thorough enough in deportation cases as they have not the same tools as the police and that the case procedure will therefore take even more time.

Organisationally, the secretariat of the Refugee Appeals Board, the Immigration Appeals Board as well as the National ID Centre have all been placed under the Return Agency. This has increased the problem of political influence and the inappropriate mixing of the different agencies in the asylum system. 3 examples as an illustration:

- The Return Agency is to “inform” applicants who have been rejected in the first instance about their chances of getting asylum, and that they might withdraw their appeal to the Refugee Appeals Board and receive 20,000 DKK if they leave at once.
- The National ID Centre determines the genuineness of documents in asylum cases, family reunion cases and in cases of forced deportation. Hence the office ought to be independent and not under the Return Agency.
- If a refugee, who has been granted asylum, has a case with the Immigration Appeals Board about an application for family reunion, s/he receives an answer by digital mail box (e-Boks) saying, “Letter from the Return Agency”. This evokes a strong fear in the recipient, a consequence nobody seems to have thought of.

The headquarter of the new Return Agency is placed in the former buildings of the Danish National Police's foreigners section, situated in Birkerød, and the agency also has offices in the 3 deportation centres and in Kastrup Airport.

Claes Nilas has been chosen as director of the new agency. He has been a centrally placed public servant in the area of immigration for decades, latest as vice director of the Agency for International Recruitment and Integration (SIRI). Nilas has been known for his involvement in two scandals concerning refugees and immigrants. The Tamil Case and the Stateless Case. During the Tamil Case he was the secretary to the Minister of Justice at the time, Erik Ninn-Hansen, who was later impeached for his role in the case. During the Stateless Case, he was head of the department in the Ministry of Integration and played a central role in advising Minister Birthe Rønn Hornbech, who had to resign as a result of the case. In 2015 the commission, which was established to hear the case, pronounced strong criticism of Claes Nilas, who was consequently discharged. Claes Nilas teaches immigration law at the Faculty of Law at Copenhagen University.

So far, not much good can be said about the Return Agency according to others involved and those refused asylum. According to reports, the interviews are quite like those of the police, though friendlier in tone. They are still formal interviews by the authorities, with information and questions from caseworkers and answers from the rejected asylum seeker. It has taken some time to get the positions filled and to get the cases transferred. The answers to requests are still slow in coming.

DRC, the Danish Refugee Council, has lost its authorization for counselling rejected asylum seekers but is still responsible for voluntary repatriation (for those who have a residence permit but want to go home). The millions which DRC earlier received for impartial counselling for refused asylum seekers has now been transferred to the Return Agency. However, the word "impartial counselling" cannot be used about the work of the new agency, as the Ministry has as a defined target to deport a larger number of persons.

The Red Cross, as well as DRC and IOM, say that they have no idea how the new agency will work. Until now, there is little information about what they do and how many/who they deport. According to the figures given by the Return Agency itself, they have deported 542 persons all in all since they took over the task in August 2020 and until February 2021. It is unclear, however, which categories are involved. IOM expresses concern as to whether applicants will be able to distinguish between the Immigration Service and the Return Agency when they both belong under the same Ministry, and they are both present in the centres (B).

“It is going to be hard. I know these families from Sjælsmark, I have worked with them for three years now. I have difficulty seeing what would make them leave, I really have.”

- Red Cross employee in interview in AdMiGov, Kalir et al. 2021 (B)

“When they tried to make me sign that I will cooperate and leave voluntarily, I felt as if they asked me to say that I had no problems in my home country. And that is not true. So, the money and all that made no difference.”

- Charles, rejected asylum seeker from Uganda, went home on his own after 8 years

“The creation of deportation centres, the duty to report, canteen food and so on, I regard all this as simple harassment, and it has no effect when it comes to making people leave. I do not know any asylum seeker who has decided to go home after having spent time at a deportation centre. Some have gone to Germany or France, but none of those with which I have been in contact, have gone home. Those who decide to leave do so shortly after the refusal from the Board.”

- Marianne Vølund, immigration lawyer

The Repatriation Act

In December 2020 Tesfaye sent a draft for a new Repatriation Act to be reviewed by the different organisations and associations, Refugees Welcome among others. The act was put into force from June 1. 2021.

The Repatriation Act encompasses all existing laws concerning rejected asylum seekers, conditions of residence, bans on entry, etcetera. The 415 pages bill with commentaries contained little new, even though the Ministry presented the bill with solemn words about new and more efficient tools, clearer rules and transparency, “based on trust, transparency and predictability”.

However, the bill lacked any understanding of the rejected asylum seekers' situation and the reasons why they will not leave, as well as a total lack of recognition of the fact that the self-same policy has suffered defeat for decades and has had dire consequences.

It is impossible to create trust in “a culture of distrust”. The asylum system is based on the supposition that they “are here to take advantage of the system” and the increasing control by surveillance and punishment is counterproductive when it comes to trust. Research shows that such distrust in the asylum seeker evokes a correspondent distrust in the asylum seeker himself and creates a negative climate for making decisions.

One slight improvement in the new law is a clearer definition of what it means to “co-operate” and a change in part of where lies the burden of proof. On the other hand, the contract of cooperation must now be signed immediately after refusal, and if the

person does not sign, this automatically calls forth a ban on entry already before the 7 days' respite for leaving. This is quite unreasonable and means that many will feel pressured to cooperate, but later change their minds. It is sensible to make an effort shortly after the final refusal, but what is needed is impartial counselling and time to reflect before making such an important decision.

Unfortunately, the possibility of confinement is kept as a motivational measure. "If the foreigner does not cooperate on his return, the foreigner should be confined in order to ensure that the foreigner cooperates as to getting documents and on the return in general, if less radical means are insufficient." However, there are numerous examples of refused asylum seekers being confined in Ellebæk, even though they have complied with their duty to reside and duty to report. The European Committee for the Prevention of Torture has strongly warned against exactly this kind of unnecessary imprisonment in their report on Denmark from 2020 (H).

There will no longer automatically be made a complaint to the Refugee Appeals Board in case of a refusal from the Immigration Service. There will now be a "time to think" of 14 days, while the Return Agency will inform the person of what the chances are of getting asylum by the Refugees Appeals Board (in 2019 the chance was 16% on the average and for certain nationalities it was close to 0), and that he or she would receive 20,000 DKK if giving up and leaving immediately. If so, the resort to a lawyer free of charge is lost, and even though the chances were small, the case might have been won. This is a clear deterioration of legal rights according to the comments on the bill, including that from the Danish Institute of Human Rights.

CRIMINALIZATION

American jurists and researchers use a concept which is sadly suitable to the Danish asylum system: "**Crimmigration**". This means that a government dissolves the boundaries between immigration, deportation, and criminal law. This is the case through the whole asylum procedure.

- 1) Helping a person into the country or through the country is punishable with up to 2 years in prison. This is regarded as human trafficking, no matter if it is done for humanitarian reasons, if it is your own sister or if it is for money.
- 2) In order to get into Denmark, it is most often necessary to use smugglers or fake papers.
- 3) If you do not immediately say "I seek asylum, and my passport is a fake", you risk starting your stay in Denmark with a 40-days sentence for forging documents.

- 4) During the asylum process it is not allowed to work (only after 6 months and on conditions very few can observe) and the refugees get little economic support. Many are forced to get money through illicit work, theft and selling hash. Besides, many are forced to travel without a ticket to get away from the centres, so some end up with large debts in unpaid fines.
- 5) After the refusal, the person is really treated as a criminal, and some are pressured into actual crime. The person is moved to a deportation centre and two of these are run by the Danish Prison and Probation Service under worse conditions than in the real prisons. A person may be detained without warning in Ellebæk, which is far worse than an ordinary prison, and be detained for up to 18 months without having committed any offence. Any right to support or work is lost, and the problems described in section 4 become even more obvious. If the strict duty to stay in the centre is not complied with, a person may get sentenced to prison. Even though he or she may later get asylum or a residence permit for other reasons, an expulsion order may have consequences. Some of the residents at Kærshovedgård even try to get into a real prison, because conditions are better, and it is possible to earn a little money.
- 6) Because conditions and terms have become so inhumane, many disappear from the system and go underground. Without papers a refugee lives like a criminal, forced to live clandestinely, work illicitly, use other people's health cards, travel cards and so on. Other people risk being subjected to criminal proceedings if they are housing a refugee or letting him or her drive their cars.

People who were once law-abiding citizens and just made use of their human rights to seek protection in Denmark are thus step by step forced towards illegality and a life of crime. Most try to withstand and feel terribly humiliated by being treated as criminals. Children see their parents being dragged away and confined in Ellebæk. Others give up and simply adapt to the new life as well as they can. The hash trade is rampant in the deportation centres, as hash both calms the dealers' own frayed nerves, and at the same time gets them the money they all need.

“In the Danish context extensive empirical research has shown that negative living conditions break people down, keep them in poverty and drastically increases the risk of criminalization (thereby ending up in an even worse judicial situation). At the same time, it does not increase the rejected persons' will to “go home” – something which has even been confirmed in interviews with the Danish police and the Danish Prison and Probation Service.”

- Annika Lindberg, researcher, Copenhagen University

“All this pressure does not help in any way. If I know that something will happen to my daughter when I go home, I will never leave. I would rather stay in Sjælsmark for 10 years than go to Iraq under this government, because at least I have a safe place for my daughter. Of course it is hard, of course people fall ill, but everything is better than that.”

- Ibrahim, Palestinian refugee who received residence permit after 12 years

“I consider punishment for not complying with the duty to report simple harassment and an enormous waste of resources. Persons in deportation centres have no possibility of paying, and even a prison sentence has no effect, as conditions are in many ways better in a prison than in a deportation centre. Besides, it is a waste of resources to prosecute the person with judges, prosecutor and solicitor – a clear waste of time for everyone.”

- Marianne Vølund, immigration lawyer

MENTAL AND PHYSICAL DEGRADATION STARTS ALREADY IN THE ASYLUM PHASE

An asylum centre is almost homonymous with bad health. A long list of things contributes to this fact, even before an eventual refusal. Researchers with Malmö University have summarized the elements necessary for obtaining psychosocial well-being:

- 1) Freedom of movement, independence and being in control
- 2) Social relations and a network
- 3) Security.

None of these elements exist for an asylum seeker in the Danish system.

Some stress factors are unavoidable and can only be tried alleviated. But the majority are unfortunately the result of a conscious policy and could be improved relatively easily. More about this in the last chapter under the heading ‘Recommendations’.

Stress factors which can only be partially remedied:

- Asylum seekers are often traumatized before arriving to Denmark.
- The escape has as a rule led to them being parted from close friends and relatives.
- Worries about the future may create anxiety and unrest.
- The control of one’s own life is lost.
- Communication with neighbours and employees is often a problem.

Conditions which are consequences of political choices and could be improved:

- The time interval to wait for the case to be determined leads to stress and worries.
- The centres are often situated in isolated places far from society in general.
- The living space is limited and there is no privacy.
- Meaningful activities are very limited.
- It is impossible to cook or to choose when to eat.
- Many people with big problems are gathered in the same place.
- Many involuntary moves between centres means loss of network and contacts.
- Asylum seekers are kept in poverty.
- Asylum seekers have only limited access to the health system.

Mental health, especially, deteriorates in the asylum centres. Problems such as headaches, stomach aches, sleeping problems, self-harm and eating disorders are incredibly common. Many get psychiatric diagnoses during the stay in the asylum system. But refugees also fall ill with physical diseases, which get worse because of stress, traumas and inactivity. Diabetes and hypertension seem to rise proportionally to the length of the stay. Asylum seekers have very limited access to dentists and often have tooth problems already on arrival.

Back in 2009, the Danish Institute for Human Rights published an extensive report on the effects of the motivational measures. The Institute concluded that there were encroachments on the right to privacy, family life and education and that this brought on severe mental strains for many. Especially the limitation of freedom led to mental problems, suicide attempts and was detrimental to children's quality of life (D).

"I sleep really badly every night. I have many thoughts about my future and my life, and I share the room with an old man, who is ill and talks all the time, twists and turns, gets up, coughs... When he asks in the morning, if I have slept well, I just say yes, because I feel sorry for him."

- Laurent, has lived at Kærshovedgård for two years

"In Trampoline House we have always argued that the Danish asylum system produces clients for the Danish social services and not self-reliant individuals who can take care of themselves. After having waited for years, been institutionalized, criminalized, isolated and treated like children, it is quite impossible to be self-reliant, no matter if they have received asylum and are being sent to a municipality or have been refused and must return or make a new plan for their lives. More than any other countries, the Social Democratic, Scandinavian ones ought to be able to come up with a better system."

- Morten Goll, co-founder and manager of Trampoline House for 10 years

A study from 2007 (QQ) and one from 2019 (AA) based on data from 4,516 and 46,085 asylum seekers/refugees both show that the time spent in the asylum system has a clear, negative effect on mental health. The same result can be seen in several smaller Danish as well as foreign studies.

The first study investigated persons in the asylum system and showed that the number of individuals being referred to a psychiatrist rose proportionally with the waiting time and that the long waits were especially hard on torture survivors.

The last and more extensive study was made for the Rockwool Foundation in 2019 (AA) and analyses the figures for all refugees in Denmark 1995-2016. It compares the waiting time to get asylum (up to 71 months) with the occurrence of mental diagnoses afterwards – that is after the person has received a residence permit. The conclusion was that a waiting time of more than a year increased the risk of getting a psychiatric diagnosis later. The study showed that the psychiatric diagnoses increased most for the first couple of years and then decreased, while the rise in the number of nervous ailments like PTSD did not fall for several years.

Rejected asylum seekers are only included in the Rockwool study in a very limited way. However, the authors write, “The conditions during the asylum procedure can be decisive, for example over-crowded centres, the risk of verbal and physical attacks from other asylum seekers or watching others doing harm to themselves, extreme boredom, isolation and worries about the future. Protracted periods of such living conditions are hurtful for most people, but even more so for a vulnerable group such as asylum seekers.”

Children’s mental health has been investigated many times in different ways. Edith Montgomery examined child refugees arriving from the Middle East in the 1990ies and proved that the waiting period and the stay in the asylum centres had a more negative effect on the children than the traumatic experiences most of them had had on arrival. The Red Cross has made several studies, among others one relating to 246 children in 2008 (BB) and a psychology report about the children in Sjælsmark published in 2019 (K). The last report proved convincingly that the move from residential centres and private housing to Sjælsmark had considerably harmed the children’s condition. See more about children in chapter 3, page 42.

“Children waiting in Danish asylum centres live neither in the present in which they take no interest, nor in a future which they cannot imagine. The children are locked in a painful “empty time warp”, characterized by a quiet fog of indifference. A life without control of their future results in helplessness and loss of identity. When children cannot see themselves in the future, they become prone to anxiety and meaninglessness. Bereft of being able to care for their own lives, they look straight at death.”

- Kathrine Vitus, researcher, co-author of the book “Asylum Children in Denmark. A childhood in No-man’s Land.” (J).

REZA, IRAN

Reza escaped with his wife and his daughters from Iran in 1988 after having been imprisoned and tortured for his resistance to the Khomeini regime. In Greece he received asylum from UNHCR and was offered resettlement in Denmark as a quota refugee with his family, and in 1997 he was given permanent residence. He worked as a self-employed accountant.

In 2004 he asked the police if he was allowed to return to Iran with his aging mother, who had fallen ill and wanted to return to Iran after 17 years of legal residence in Denmark. The police did not see any problem, so they left in 2006. At that time Reza was divorced from his wife. His mother died in 2009 and Reza returned to Denmark, where his daughters and ex-wife still lived.

However, the Immigration Service decided that his residence permit was forfeited, as he had been away from Denmark for too long, and Reza had to move to an asylum centre. The decision was confirmed in 2012. By now Reza was an old man of 70 and he was seriously ill with KOL and much reduced lung capacity after years of an opium addiction, opium being the only thing that could ease his pains after the torture in his younger days (documented by the medical group of Amnesty International). He was nevertheless imprisoned in Ellebæk prison in 2014, and after that moved to Kærshovedgård, where he lived several years in the Red Cross care unit.

His daughter and Refugees Welcome applied several times in vain for humanitarian residence and residence on special grounds. Neither the Immigration Service nor the Ministry thought that his 26 years in Denmark or his ill health could substantiate a residence permit. In 2017 Refugees Welcome asked to have his case reconsidered by referring to a new decision by the European Court of Human Rights (the Paposhvili case), and finally Reza received his residence permit in 2019. However, the Paposhvili case is not mentioned in the decision – only the fact that Reza's condition has become worse since the former refusal.

Although it may be acceptable to revoke the asylum status of a refugee in some cases if the person returns to his home country, Reza acted in good faith and the additional factors ought to have led to a renewal of his residence permit. His very long and legal stay in Denmark, the fact that his whole family live here and are Danish citizens, plus his being elderly and ill with an addiction caused by torture, all speak against his being sent back to Iran. The years at the deportation centre was also a serious stress factor for his grown-up daughter who had to provide food and care for him and take the train from Copenhagen to Kærshovedgård every second week.

“That pressure makes people ill, and it becomes even worse and more expensive for Denmark. I recently met a girl from Iran who had been sent to Sjælsmark. I could not recognize her, but I knew the name. She was completely broken after 3 years in Sjælsmark. Her case was reopened as a humanitarian case and now she has received a residence permit; now, however, she will be of no benefit to Denmark because she is so ill. That's even worse and even more stupid. If a person gets a residence permit for humanitarian reasons he or she must not get well, because then the residence permit is withdrawn.”

- Ibrahim, refugee and Red Cross employee

“Those who are detained come to suffer from many ailments, such as unrest, stress, apathy, depression and insomnia. These mental and physical damages can be directly linked to the fact that they are detained, and/or the detention exacerbate traumas and limits the access to health care. The harmful effects must be seen in the light of the fact that detention has proved inefficient as a tool to control migration. Hence, the human and societal costs due to detention are considerable.”

- from The Impact of Detention on the Health of Asylum Seekers, 2018 (CC)

EXPENSES

Accommodation and case processing are expensive, and the money could be spent more rationally. Many expenses are politically motivated and unnecessary. The next chapter has many suggestions for improvement, which will save money. But as the whole, the asylum policy is designed to scare asylum seekers away from choosing Denmark, and there is a readiness to spend much in order to reach that goal. From an ethical and humanitarian point of view one must point out that the money spent to make conditions as unattractive as possible would be better employed helping more refugees. The money spent on asylum seekers is taken from the Development Aid on the Financial Budget and included in the cost of “non-western” immigrants for society.

In the long run society could save money by solving the problem of rejected asylum seekers in deportation centres and underground. This is not done by spending more on making their life a hell. Even though some refugees with a residence permit receive support the first years and some end up with an early retirement pension because of traumas and illness, most will become self-supporting, pay taxes and take part in society as ordinary citizens – until they one day risk having their permit withdrawn and the whole effort will be in vain.

- The annual expense for a person in an asylum centre: 130,000 DKK
- The annual expense for a person in a deportation centre: 300,000 DKK
- The annual expense for a person with residence permit on repatriation- and self-support allowance: 72,000 DKK before taxes (DD + borger.dk).

“If we had been given a residence permit after 1 year instead of 12 – just think how much we had paid in taxes all these years, how we had contributed to society. My wife and I are highly educated, and this is now wasted. My daughter is soon to start studying medicine. All right, these families cannot be sent home – so give them residence permit.”

- Ibrahim, refugee from Palestine, received a residence permit after 12 years as a rejected asylum seeker

Duration of case processing

Most asylum cases can be decided within half a year, if there were the necessary personnel. The Rockwool Foundation has recently discovered that the waiting time in asylum cases is inversely proportional to the number of applicants: The fewer arrivals, the longer case process. For the moment we have the lowest number of asylum seekers in 30 years, but those who get asylum have generally waited for 19 months. Hence, it is a question of prioritizing and the number of employees. The latest available figures for processing time are from the spring 2021: The Immigration Service (first instance) 120 days, and the Refugee Appeals Board (second instance) about 8 months.

Withdrawal cases and subsequent complaints have a higher priority than new cases, so that many cases about already well-functioning and self-supporting persons make demands on caseworkers.

As I recommended in my report “Well-founded Fear – credibility and risk assessment in Danish asylum cases” (N), shorter and more structured interviews and better counselling before the first interview would lead to fewer mistakes and complaints. The following and separate procedures for unaccompanied minors, obstacles to deportation and humanitarian stay could be integrated in the asylum procedure, thereby shortening the waiting time.

At the moment complaints to the Immigration Appeals Board in family reunion cases take up to 2 years, which has led to a reprimand from the Ombudsman. Many complaints could have been avoided if Immigration Service made fewer mistakes. When cases are finally processed by the board, many are returned to Immigration Service.

Accommodation

The longer wait for case processing, the longer stay in the centres. The whole centre system is expensive because it takes a lot of administration and personnel. The number of residents fluctuate much from year to year and may change without warning, which means that centres must be opened and closed all the time, and periodically empty or half-empty centres are on stand-by – all very expensive. Much of the problem could be solved by letting asylum seekers live with friends and family temporarily, giving them an allowance which they could administer themselves. This has been done in Sweden to a large extent. It would also be advantageous to create smaller living units without day and night personnel, connected to a central service daycentre.

The centre system is also expensive because of the insistence on not giving the residents access to the local services already existing: medical care, school, nursery. Every centre must therefore have its own health care clinic and kindergarten, and schoolchildren must be taken in private buses for hours to a special asylum school.

Deportation centres are a far more expensive solution than the usual asylum centres where those refused asylum also lived earlier. The price is more than double per person, although most residents get zero kroner in allowance.

Transport for all residents becomes a big problem when only buildings housing several hundred people can be used, and these must better not be in urban surroundings. The operators therefore have expenses to special cars and buses, and many residents travel without tickets and are getting fines, which they cannot pay. A free travelcard for asylum seekers, for example limited to out of rush hours, would solve the problem.

The most extreme example of a waste of taxpayers' money are the tent camps which former Minister of Integration Inger Støjbjerg opened with a big smile on a snowy day in 2015. They were installed at a time when Germany had been forced to use tents because of the large number of new arrivals. But there was no need at all for tents in Denmark – the Red Cross told the press that they could still find houses. It was solely a question of making sure that conditions in Denmark were not better than in other countries. Several of the 4 tent camps were never used before they were shut down. The last one was maintained “in case of an emergency” until September 2019, although more than 70 asylum centres have been closed since 2016. The tent camps came to cost nearly 60 million DKK, not least for the heating which also amounts to an irresponsible amount of carbon dioxide emission.

For a period (from 2010 to 2013) families with children from certain countries who had been refused asylum more than a year earlier, were offered to move to separate houses connected to an asylum centre. These were typically small terrace houses. This model could reduce expenses because of less illness and more self-government, but without residence permits it still demands paying contact persons and expenses to administration of rent and so on.

“I hate asylum centres. I cannot even come back to help as an interpreter if people ask me. People are treated like a cross between criminals and animals. I became totally depressed staying there, just lay there staring into the wall. Before coming to Denmark, I spent a year in France because I wanted to go to England. There was no centre, sometimes one had to sleep on a bench, but I felt better – I was with friends, we spent the day trying to survive and there were nice people who helped us. It was hard, but we could decide for ourselves.”

– Ahmed, refugee from Sudan, today an educated plumber

Food and allowances

Periodically, sufficient allowances have been given to buy food and other basic needs, and there used to be access to kitchens in the centres. To implement canteens and recently the food packages version 2.0 is far more expensive. This is just another instance of the policy to scare refugees away from choosing Denmark.

The deportation centres have canteens and no kitchens, although Avnstrup has had new common kitchens installed and has a pilot project where each family can order food from a special online catalogue, which is then brought to the centre. This is clearly more expensive than if every family was paid a sum for which they could shop – which they would prefer.

Most families and singles in deportation centres get zero kroner in allowance. Those who cooperate on their return get small sums in pocket money, the same goes for persons on Tolerated Stay at Kærshovedgård, who get about 400 DKK every fortnight.

Detention and control

Surveillance, control, registration, deportation and so on take up a large proportion of the budget of the asylum system. The precise numbers are not defined in public operator contracts and so on, but the difference between a stay at an asylum centre 130,000 DKK and a deportation centre 300,000 DKK speaks for itself. The additional expenses for running Ellebæk prison is a totally unnecessary big expense. The prison has recently been extended, so there are now 192 places and 58 employees. Finally, there are expenses for court cases concerning the duty to reside and the duty to report. All these expenses are unnecessary and again lead to higher medical expenses. The money could be spent far more advantageously for better purposes.

MORE PEOPLE UNDER GROUND

The most significant effect of the present policy is the increasing number of people who live outside the system in various ways. Paradoxically the political goal to have as much control as possible over foreigners has the directly opposite effect: that a large number avoid any kind of registration and completely opt out of society. The advantages of being in the system (a roof over one's head, food and recourse to medical care) are not enough to counteract the negative things (the duty to reside in a remote centre, loss of freedom, privacy and not the least autonomy).

Shortly after the opening of Kærshovedgård in March 2016, it became clear that deportation centres do not increase the number of returns, but only increase the number of “disappeared persons”. During the first 3 years of its existence (2016-2019) 74 persons out of 653 have returned or been deported, 78 have received a residence permit and 419 have been registered as absentees (L). Considering these figures, deportation centres must be declared a failure.

The number of persons who have disappeared exceeds by far the number of those still in the deportation centres and those who are sent home or go home of their own accord. See more figures page 63. When the deportation centres were established, the intention was for people to stay there for some months while their return cases were being prepared and put into effect – but as many of us warned back then, the opposite happened. A majority went clandestine or remained with unsolvable cases for years.

Those who disappear most often go to other countries in Europe. There they may try to seek asylum again, which normally lead to a Dublin procedure and a return to Denmark. A few get asylum, however; others may have family members or friends abroad with whom they may live and slowly try to become legitimate by family reunion or a work permit. Those who stay clandestinely in Denmark usually have a family or another strong network and survive on undeclared jobs or are just supported by others. It is an impossible task to search for them in a systematic manner, and they may live like this for many years as they are usually only caught by coincidence and in connection with other situations.

Having many clandestine or undocumented people is a problem both for the individual and for society. The Covid-19 pandemic has been a good example of this – thousands of clandestine immigrants in Europe have not had access to test centres, quarantine or vaccine. Lack of care for pregnant women and access to midwifery constitutes a serious risk for the unborn and new-born babies of undocumented women. Voluntary clinics see examples of untreated tuberculosis and hepatitis. But there are also problems on the labour market where for example the building industry and restaurants are filled with people who work for absurdly low wages and without any kind of security or rights.

“The threat of deportation makes many go underground. I have studied the undocumented persons in Europe, and they live terrible lives. Their expected life span is the half of others’. One must try to persuade people to go home voluntarily and help them doing so, but I am totally against forced deportations.”

- Fareed, Afghan refugee and researcher

REVOKING RESIDENCE PERMITS LEADS TO MORE DEPORTEES

The group who are refused asylum may never really have had a motive for asylum even though they may certainly have other problems in the home country. This is not a new phenomenon, though solutions have never been found to what should happen to them. However, the politicians have themselves extended a second group and added a third group lately.

The new group are those who get asylum, but lose their residence permit again – a consequence of the new, short and very temporary permits, which were instituted in 2015 (the new paragraph 7,3-status) and since tightened up in 2019 (the Paradigm

Shift). Several hundred Somalis have already lost their residence permits since 2018 and the first cases of withdrawing the permits of Syrians from Damascus have been confirmed recently. During 2021 the Immigration Service expects to withdraw hundreds of permits for Syrians – hence the number of cases concerning loss of residence permit may for the first time in history surpass the number of new cases for the Refugee Appeals Board, since very few applicants arrive now. There is no return agreement in view with Syria, so the result will again be more people in the deportation centres and more who go underground in other countries in Europe. UNHCR maintains that Denmark's interpretation of the right to asylum is flawed when asylum is revoked or extensions refused in these cases. "Enduring and stable changes" in the home country should be the only basis for withdrawing asylum (Z).

At the same time the criteria have been tightened for when a person has obtained a strong tie to Denmark. The criteria for attachment to Denmark of 2019 (the Aliens Act § 19 b) are, however, based on the praxis of the European Human Rights Court as to the expelling of criminals – not law-abiding refugees who lose their residence permits.

The criteria for obtaining and the required time of residence for applying for permanent residence and citizenship means that most refugees cannot live up to them (only 331 refugees got permanent residence in 2020). Many refugees therefore risk losing their permit now, which very rarely happened before 2017.

The second group are those who have asylum but get a sentence of expulsion for criminal activities. During the government of Lars Løkke it was decided to "test the limits" of the conventions and expel as many as possible. This will lead to a rising number of persons on "Tolerated Stay".

The last group is not new, but also a self-imposed problem. They are those who lose their residence permit because they have been away from Denmark for too long. See the case of Reza page 109.

All three reasons are unnecessary and leave society with self-inflicted problems and expenses. The worst thing is that many of these withdrawals of permits are decided regardless of whether it's possible to deport the person at all. The logical consequence is that it leads to even more cases where people perish in deportation centres paid by the state, when they could live normal lives among us instead.

- To **re-evaluate** the residence permits of all refugees every second year is a totally new practice in Denmark and part of the "Paradigm Shift" from 2019. UNHCR has directly told Denmark that this practice is not compatible with the Refugee Convention and that all refugees ought to have easy access to permanent residence after 5 years, which is the case for EU-residence permits (Z).

- To **expel** a young man in addition to the normal penalty has no preventive effect. Most have no idea what gives an expulsion and what does not. Pre-emptive teaching in the local municipalities would be more efficient. There is no reason why a refugee or immigrant should be punished differently from a Dane.
- Nor should **a protracted stay outside of Denmark** result in a loss of residence permit. Nobody is hurt by it and Danes may stay abroad for as long as they like.

Socially, humanely and economically it is completely illogical to invest a lot of money in municipal integration programs for new arrivals making refugees learn Danish and getting a job – and then discarding it all by withdrawing the residence permit and forcing them to either go back or live in a deportation centre. The constant fear of losing the residence permit damages the mental health and the successful integration of refugees in Denmark.

“After 6 years of legal residence, I suddenly got a letter saying I was to be interviewed by the Immigration Service again – they had received new information in my asylum case and considered withdrawing the permit. I was totally shocked and could not eat or sleep. Several months passed before the interview and afterwards also months before I was finally told that it was OK after all. It was a terrible period, every second I was thinking about what to do – I could not go back to Iran. I had to postpone an exam, I was unable to do anything.”

- Aida, refugee from Iran

“My wife’s parents and younger sisters and brothers came to Denmark and were granted asylum. But she and her elder brother were over 18, so they were refused family reunion. Hence, the next 6 years she lived in Pakistan without her family. She had a lot of problems those years and she still has nightmares about it, even though it became better when she came to Denmark and got asylum. When the politicians talk about changing rules or withdrawing residence permits, she is very much afraid and just lies in bed staring at the ceiling. She is thinking of the old days and that there is a great risk. She hears about the Somalis having lost their residence permits. Yesterday I talked with her about it and she said that if she was told to go back it would be better if she died here than to return to Afghanistan. She said, ‘I will never return’”.

- Rahim, Afghan refugee and student

EXPELLED AFTER 8 YEARS

In May 2020 the Refugee Appeals Board decided the first case after the law about attachment to Denmark was tightened as part of the “Paradigm Shift” of 2019. A 27-year old Somali, who had lived legally in Denmark for 8 years, had educated himself and had a permanent job, lost his residence permit because Mogadishu, which he came from, was considered a little safer than before. The Refugee Appeals Board considered that although the man had “considerable ties to Denmark” and the withdrawal would with some intensity invade his right to privacy, according to an overall evaluation it would not be contrary to Denmark’s international obligations.

The case proves that the rights of all refugees are threadbare, no matter how much they do to integrate. The demands in order to get permanent residence have become so high that very few are able to live up to them, and education does, for example, not count.



Somalis residing in Denmark demonstrate against the first withdrawals in 2017

ABRAHAM, ERITREA

Abraham was granted asylum under the Refugee Convention in 2015, like many other Eritreans in Denmark. In 2017, he was sentenced to a 40-day suspended sentence by a national court for his involvement in a situation where two others had a fight and a woman got hit by mistake. It happened early one morning in the street in front of a bar; the judges chose to believe an ethnic Danish woman's statement and disregard another Eritrean witness' version of events. Abraham is highly respected among those who know him and had never before – nor has he since – been involved in violence.

Due to his short residence stay in Denmark and lack of family ties, he was also handed an expulsion sentence. Shortly afterwards, he was informed by the municipality that he had lost his residence permit and benefits but was told nothing about what he was expected to do. He had to stop his job internship and his language school and give up his apartment. Two months later he received a letter from the police informing him that he must go to Kærshovedgård deportation centre.

In the months that followed, he had several video conversations with the police (today these would take place with the Danish Return Agency). The Police told him that he must leave Denmark and asked him to sign a declaration of cooperation and contact the Eritrean Embassy in Sweden. No word was mentioned of his asylum status or the Immigration Service. Abraham was panicked at the prospect of being returned to Eritrea. He slept very badly and considered leaving Denmark and going underground.

Refugees Welcome contacted both the Immigration Service and the police many times about his case. His police caseworker said on the phone: "There is nothing about asylum in his case file, he must be deported, that's all we know."

After 5 months in the deportation centre, Abraham finally had an interview at the Immigration Service. They confirmed that he still had protection needs and they decided to reinstate his residence permit. He could then move back to the town where he lived and resume his life, having been threatened with deportation and deprived of his normal life for almost 8 months, even though he was only given a conditional sentence of 40 days. Due to his conviction and court sentence, he will be barred forever from applying for citizenship, even if he meets the criteria one day.

Few are as lucky as Abraham. Most refugees who are given an expulsion order have to appeal the decision to the Refugee Appeals Board, which means another year spent in the deportation centre. Depending on the nature of the offence, the length of the sentence and the degree of integration, they may end up in the same position as Abraham, or they will face an uncertain future on Tolerated Stay, after serving their sentence.

9. DISCUSSION

The previous chapters show the policies being implemented and the effects and consequences of these policies. This chapter discusses whether the assumptions reached by politicians and the premises on which these policies are based are correct. These premises have never been questioned by politicians in the past.

THE PUSH-PULL EFFECT: IS IT REAL?

The entire Danish policy towards those rejected from the asylum system rests on two fundamental assumptions, both of which are incorrect:

Assumption 1: If you grant residence in unresolvable cases, many more will come, because they will hear that you can “wait for asylum” (pull).

Assumption 2: If you make their lives miserable enough, they end up giving up and going home (push).

It is these two ideas that have led to the acceptance of children languishing in limbo for decades and large sums of money being spent on destroying people's lives. You keep those who have been rejected from the asylum system in deportation centres as a kind of hostages – to scare others away, just like when severed heads were mounted in public places.

“I have no doubt that our hard line on migration is well known outside the country's borders, and that's exactly the effect I wanted. I've never had any doubt that refugees compare the different welfare benefits available to them in different European countries. The government has now put an end to the Danish gift shop.”

- Inger Støjberg (V), then Minister for Integration 2018

“The push-pull model is based on a very simplified perception of the parameters that lead people to flee and is strongly criticized within research. In particular it assumes that everyone has all the available information and responds to the same incentives. The model not only ignores the complexity of people's decisions, but also distorts causation. Contrary to the notion that restrictive conditions prevent migration, research shows that reinforced border controls and restrictive asylum policy reduces the willingness of asylum seekers to return to their countries of origin, because these conditions force them to sacrifice money and risk their lives to come here. In other words, a restrictive policy creates the illegality it tries to counteract.”

- Annika Lindberg, researcher, University of Copenhagen

The problem with the two assumptions is that they rely on the gut feeling that the politicians and the public have had over decades. They are not in line with the own assessment of refugees or with statistics and research in this area. There are elements of truth in the two assumptions, but as a whole they are misleading.

The following factors counter the two assumptions:

- Refugees are fleeing from something, not to something. They themselves are convinced that they are in danger and that they will be granted asylum. And they may well be in real danger, even if they are refused asylum, as the definition of asylum does not cover all the risks, and the asylum process is also subject to great uncertainty.
- No asylum seeker examines in advance what happens if you are refused asylum in the country where you are seeking asylum. Asylum seekers who have just arrived at the EU's external border do not know that, if rejected in Denmark, they risk being trapped forever in a deportation centre.
- The rumours that asylum seekers respond to along the way are typically very inaccurate and not always correct, e.g. "Syrians do not get family reunification in Denmark", or "refugees are welcome in Sweden". The rumours are never about what happens after a possible refusal.
- Most people who choose Denmark deliberately do so because they have family members here or because they believe that Denmark is a country that respects human rights.
- Many other countries have better opportunities to obtain legal residence over time, including through amnesty, which has not led to a large influx.
- Over the past 38 years, various methods have been used to pressure those refused asylum to go home. Although conditions have deteriorated quite radically, there has been no effect on the figures: about a third of those rejected are deported or leave voluntarily during the first few years if there is a repatriation agreement with their home country. The vast majority disappear – which means that they live underground, most often in other European countries. Those who are in exit position make up a fairly constant number of around 1,000 people, of whom a few hundred end up staying in deportation centres for many years.

For these reasons, granting temporary residence permits for the unresolvable cases will have no immediate impact on new arrivals and better equips the system to prevent unnecessary refusals. This will lead to fewer people in deportation centres and fewer forced to live underground, as they will have legal residence.

Those that can be returned today will still be able to be returned if the recommendations in this chapter are introduced. However, forced deportations should be avoided altogether as they have extremely negative consequences, as described on page 64.

“The push-pull effect is an abstract economic model from labour market research, which has moved over to the much more complex area of flight and border control. There is a high degree of chance in relation to who arrives where, and therefore it cannot be directly seen as an effect of the policies of different countries. More pragmatic solutions would remove the most overtly negative effects of the current policy, namely human degradation. In addition, there is the economic angle: it is extremely expensive to maintain the sanctions, duty and deterrence mechanisms. The money could be much better spent on ensuring local and municipal reception processes with health screening and integration.”

- Martin Lemberg-Pedersen, Centre for Advanced Migration Studies (AMIS), University of Copenhagen

“I also believe that the dreaded pull effect is exaggerated in relation to the push effect that language difficulties pose to foreigners in Denmark. Most of the refugees I have spoken to have ended up in Denmark by chance. If you have the slightest knowledge of English, German, French, Spanish or any of the other main European languages, you will prefer those countries if given the choice. England, for example, is a popular country among asylum seekers despite a tough asylum policy. And almost all refugees from Venezuela go to Spain.”

- Morten Goll, co-founder and director of Trampoline House for 10 years

Negative nation branding

As both the figures and comments throughout this report show, the methods used so far have led to a minimal number of deportations but produced particularly negative consequences.

However, the proponents of the existing policy are correct in that the generally tough policy towards refugees and immigrants has contributed to Denmark receiving far fewer asylum seekers today than neighbouring countries. We have built such a negative picture of our country – not only in terms of the asylum system, but also in terms of a future life as a foreigner in the country – that the vast majority of asylum seekers will avoid Denmark if possible and go to other countries with a more positive image.

This “negative nation branding” comes at a high price, both morally and economically. It will mean major problems in attracting labour and foreign students, poorer integration of those who are still allowed to be here, and an exodus from Denmark of highly educated people from minority backgrounds. At the same time, Denmark is losing its old reputation as a progressive and solidarity-based country in the EU and worldwide. A small country like Denmark without natural resources depends on its international standing and having a good image worldwide.

“Despite more than 20 years of experience with various forms of so-called motivational measures, as far as I know, there are no studies or research in Denmark that show that these methods lead rejected persons to voluntarily return to their home country. It is surprising that the Danish authorities have not tried to investigate this further.”

- Thomas Gammeltoft-Hansen, professor of migration and asylum law, University of Copenhagen

“(...) the politicians say that they believe in this, and therefore it must be right. In their opinion, it has an effect. It has not been documented and no studies have been carried out on it and there is no evidence to support it. (...) whether it has an effect, I don't know.”

- Head of Sjælsmark (O) deportation centre, the Prison and Probation Service

“In 2016, Sweden implemented a drastic tightening of the law that deprived rejected asylum seekers who do not cooperate of any right to support – i.e. they may be left without housing, benefits or food. However, families and the ill are exempt. According to the Swedish Migrationsverket (somewhat similar to the Danish Immigration Service) this measure has had no impact on the number of people deported two years after being introduced. Other sources have assessed that it has simply led to more people in desperate need of and dependent on NGOs to survive.”

- Annika Lindberg, researcher, University of Copenhagen (EE)

Avoiding refugees should never be a goal in itself – they are a global responsibility, and rich countries should receive a much greater share. Today, 85% of the world's refugees are in developing countries. A system for distribution in the EU would also make far more sense than pushing refugees around by means of legal restrictions imposed at the national level. One might wonder why Denmark signed the Refugee Convention at the time if we do not want to shoulder our share of the responsibility. Currently we receive 1 refugee for every 6 refugees received by Sweden and Germany (see chart page 91).

Choice of destination

Assumption 1 only makes sense if asylum seekers were free to choose their host country and if they understood in advance what happens in the various countries if their asylum application is refused. However, international research has shown that this is not the case. My own numerous conversations with refugees have shown that the vast majority end up in Denmark by accident or against their will, often on their way to Sweden. Those who have actually chosen Denmark and succeeded in initiating their claim here cite having family here as the main reason, followed by our reputation for respecting human rights and freedom.

I asked all the refugees I interviewed for this report whether they had deliberately chosen Denmark and what they knew about the country in advance. The most common answer was that they had not chosen Denmark themselves and that they knew virtually nothing about the country. It may be the smuggler who recommends it, or a series of coincidences that determine it.

Two people from different countries replied that they had chosen Denmark over Sweden precisely because there are not many of their compatriots living here – meaning there is less risk of “gossip” reaching their home country or of being harassed by the ethnic majority. A third person told me that he met some really kind employees from the Danish Refugee Council (DRC) who helped him in Libya on his long journey from Eritrea, so he thought that people in Denmark must be some kind of guardian angels – therefore he decided to try to get here.

“It was the smugglers who recommended Denmark after they had asked me what I wanted to do with my life – study, work, whether I had children, etc. They were trying to find the best place for me and my family and they seemed very well informed, so I just said OK. The only thing I'd heard of the country was the Mohammed cartoons. I didn't even know that Denmark was part of Scandinavia.”

- Fareed, Afghan refugee and researcher

“More pragmatic rules are unlikely to lead to more applicants. Few asylum seekers familiarize themselves with the rules before they leave, and although people smugglers would know about the more pragmatic rules for rejected asylum seekers, most believe they will be granted asylum. If you choose Denmark yourself, it is usually due to family or acquaintances, but it is often completely random, based on wherever it is easiest for the traffickers.”

- Marianne Vølund, immigration lawyer

“I actually wanted to go to England because of the language, but in France it turned out to be impossible. Then I asked a friend I had in Denmark about the possibilities of education, and he told me that there were many options if you speak English, so it settled the matter for me. All I knew about Denmark was Laudrup and Bendtner.”

- Yohannes, refugee from Eritrea and engineer

“Many people want to have their case dealt with here based on an overall perception that Scandinavian countries respect human rights. We very rarely hear specific things like job opportunities, citizenship, etc. Few have a plan B, as they believe and hope that they will be granted asylum in Denmark. They do not necessarily know what it takes, and they are shocked to be refused on the basis of their credibility if that happens.”

- Cecilia Vejby Andersen, DRC's Dublin team

“We came because my wife's sister and her husband were here. We had not looked much into asylum cases, how they are handled or whether asylum seekers are sent home. My brother-in-law was granted asylum quickly, and he said that if you come from both a country where there is war and real hardship, you are 100% guaranteed to be granted asylum without any problems. That's why we hadn't even talked about rejection. We really got a shock.”

- Ibrahim, refugee from Palestine, was granted residency after 12 years

“My father had some friends who said that Denmark was a really good country with good opportunities, and he did not care which country he went to. He just said, ‘I need peace, I need to live freely without threats’. So, it was pretty random that we ended up here.”

- Ahmed, refugee from Iraq

Deliberate obstruction

When people defend assumption 1, one of their arguments is that many more will give a false identity if they hear that you will get a stay sooner or later in Denmark if the home country cannot/will not issue papers. Another argument is that Iranians who cannot be deported by force will choose Denmark over other countries, refuse to travel and “sit down and wait”. None of the arguments hold up when you look at things in more detail.

As explained above, asylum seekers do not know all the details of what happens if you are refused. As a newcomer, you are only focused on getting asylum, you believe that you will get it – and few people want to live under a false identity for the rest of their lives. This makes it impossible, for example, to seek family reunification or use an education from home, and the true identity can later be exposed. None of the Iranians I have spoken to knew on arrival that Denmark cannot send them home by force – and, incidentally, the same applies to all other countries in the EU. Therefore, it isn't that likely that all Iranians suddenly choose to come to Denmark just because Denmark offers more pragmatic solutions for those who refuse to leave. After all, such solutions already exist in many other countries, as mentioned on pages 93 to 96.

“When you are on a road going in only one direction, you don't think about what happens afterwards – I just had to get out of the situation. If I had known then that I was going to spend 12 years in an asylum centre before I got a residence permit and my whole life would be ruined and my education gone, then maybe I would have chosen another option, maybe I would have gone to another country. But you can't make a choice like that, I didn't know.”

- Ibrahim, refugee from Palestine, was granted residency after 12 years

“My sister lived in Denmark and she told me to come here, but actually I would rather have stayed in Germany, where I had flown to. I met two young Iranian men

in Sandholm who had been refused, and they are still in the asylum centre today. I was afraid of being refused, but I didn't know what was going to happen and I was very sick.”

- Aida, refugee from Iran

“I came with a visa for another country and was actually on my way to Sweden. But I heard from others that people with my ethnic profile were threatened and harassed by other compatriots in Sweden, and therefore I chose Denmark, where there are not so many like me. Fortunately, Denmark did not find out about my visa, so they considered my case and granted me asylum. I knew there was a risk of being rejected. If that had happened, I would have immediately moved on to another country – I would never have stayed here in the asylum system, regardless of the Dublin rules. I would have tried anywhere else. I can never ever go back to the Democratic Republic of Congo and the worst part is that I still can't visit my family. If I had been sent back, I would have been at even greater risk because they would wonder what I had been doing outside the country for so long without legal residence – then they know that I must have sought asylum.”

- James, refugee from the Democratic Republic of Congo

“I knew nothing about Denmark until I arrived at the airport – nothing except what I had learned at school about Europe. In fact, I had decided on Turkey. But I quickly came to love Copenhagen. I was sure that I'd be allowed to stay when I told my story. But it didn't work out that way.”

- Charles, rejected refugee from Uganda, went home on his own after 8 years

Will financial return support attract more refugees?

Sufficient financial support could persuade some of those rejected to leave voluntarily. But here comes another push-pull argument: if you give more support, you will attract more “sham” asylum seekers who come for the sole purpose of receiving financial aid. There are two arguments against this: firstly, we already have a ‘manifestly unfounded’ procedure, which weeds out those who come from safe countries with no grounds to seek asylum. There are rarely any problems with sending them home, so they do not need to be offered financial support.

Secondly, most asylum seekers have already risked their lives and endured terrible experiences during months or years to get here, and they have sold everything they owned and borrowed a lot of money on top of that to pay for smugglers and false papers. The cost of coming here from Eritrea or Afghanistan is between 30,000 DKK and 80,000 DKK. It is unlikely that many would choose to embark on that journey just to return with a bag of money. And again, you have to listen to the new arrivals: they haven't looked into things in advance, and they come seeking protection – and if they are migrants without an asylum motive, they come for a better life in the long term, not for a single payment.

However, returning home with money can also result in a lot of problems in many countries, as described on page 72. Therefore, if you increase the amount, you have to first ensure that it does not put the returnee at any risk.

“The research indicates that financial support can work both advantageously and disadvantageously, depending on the circumstances. On the one hand, it can provide an opportunity to establish oneself economically, which is important both in relation to deciding to return home and in terms of making the return process more sustainable. On the other hand, experience also shows that offers of financial support can lead someone to say yes without the conditions for repatriation actually being met. In some cases, the financial support thus ends up being spent on a new flight or migration attempt.”

*- Thomas Gammeltoft-Hansen, professor of migration and asylum law,
University of Copenhagen*

SALMA AND HASNA, MOROCCO

Salma was born in 1988 in Morocco. Her parents divorced when she and her little sister were small. Their father emigrated to Denmark while her mother became an alcoholic and involved in prostitution. Salma grew up in a children's home and ended up living on the street. In 2005 her father invited his daughters to Denmark on a tourist visa, but he was too drunk to take care of them, and they were placed in a centre for unaccompanied refugee children. Salma was 17 years old and had become pregnant before she arrived in Denmark.

She gave birth to Hasna in 2006, and mother and daughter were placed in the Kongelunden asylum centre, where they ended up living for many years. They received a number of refusals of asylum without the police being able to deport them. Salma took a hairdressing degree and Hasna played football. But in February 2012 they were told they would be sent back to Morocco.

"The police had provided me with travel documents and hoped that they could get Hasna into Morocco. I was confused and unhappy, and my sister disappeared. Five hours before the police were supposed to pick us up, we fled," Salma said.

They unsuccessfully sought asylum in Sweden and then Norway before being sent back in 2013 to Denmark and Kongelunden, when Hasna was seven years old. In 2017, Hasna was refused a claim made in the best interests of the child, as her entire 11-year life in Denmark had been illegal and therefore did not count.

Morocco is not a dangerous country and Salma is Moroccan. Usually, the collaboration between Denmark and Morocco is excellent, even when it comes to forced deportations. But this case was different. Hasna was born in Denmark, her mother tongue is Danish and her father is unknown. Therefore, according to the Moroccan Ambassador to Denmark, she is Danish.

After Politiken had written a number of articles about Hasna, and several lawyers had worked pro bono on her case over many years, she and Salma were granted residence in 2019, after 13 years in the asylum system. This was done under the section on 'Obstacles to deportation' (§ 9c (2)), which had not been used for many years.

The family should have been granted residency because of the 'obstacles to deportation' many years earlier. A stay was also applied for on the basis of the best interests of the child on several occasions, but the authorities refused these.

10. RECOMMENDATIONS

We have a problem. Rejected asylum seekers do not just disappear and the policy up until now of putting pressure on them has only proven to be costly to both them and society. Today, there are 42 people who have been awaiting deportation for at least 10 years, some for as long as 27 years – this should not happen. Instead, we should face the reality and solve the problem.

It makes no sense to stick to a policy that has a wide range of negative consequences and does not even have the desired effect. If you disregard the two incorrect assumptions about the push-pull factors, there are quite a few constructive solutions. And surprisingly there is strong agreement between all the respondents approached for this research on the preferred recommendations. This shows that it is indeed possible to change the situation if there is political will.

This chapter presents a wide range of recommendations. Overall, the recommendations focus on three different areas: preventive action in the asylum phase and legislation, the general treatment of asylum seekers and rejected asylum seekers, and last but not least a pragmatic, solution-oriented approach to unresolved cases. There are many places where the system can be improved, and therefore there are many recommendations. What they entail and the arguments for them are discussed in detail in the following section. The recommendations can be summarized as follows:

1. Preventive measures in the asylum phase and legislation

- a. Ensure access to thorough, independent advice;
- b. Decide whether removal is possible during the asylum assessment;
- c. Take a position on humanitarian issues during the asylum assessment;
- d. Change the practice for decisions on withdrawals and expulsion sentences, facilitate access to permanent residence and citizenship.

2. General treatment of asylum seekers

- a. Offer an active life with competence building, and shut down deportation centres;
- b. Establish other modalities for accommodation;
- c. Stop imprisoning asylum seekers;
- d. Facilitate access to visas, both before and after seeking asylum;
- e. Ensure legal access to apply for asylum;
- f. Open access to sponsorship agreements.

3. A pragmatic, solution-oriented approach to unresolvable cases

- a. Use existing residence permit options for unresolvable cases;
- b. Reconsider rejected asylum cases after a certain period of time;
- c. Allow applications for residence on other grounds;
- d. Grant amnesty;
- e. Assign rights gradually according to criteria;
- f. Develop alternatives to deportation as well as monitoring of voluntary returns.

Overall, the recommendations are based on a completely different principle from the policy followed up until now and reverse the very premise of the current policy. Where the current policy itself creates and exacerbates the problems, these recommendations focus on preventing these and instead using the opportunities already offered by existing law.

It is important to point out that there is no evidence to support the argument that a more pragmatic approach will increase the number of those entering the country; on the contrary the number of rejected asylum seekers is partly a consequence of the immigration policy pursued. It seems that only politicians and the immigration authorities rely on these unfounded assumptions. The contrasting approaches taken by researchers and politicians is clearly illustrated by the opinions of Tesfaye and two international researchers, outlined below:

“It is a problem that rejected asylum seekers can live underground in Denmark, and it must be stopped before it creates a larger illegal underclass. (...) Some of them just work against the authorities, and they should be dealt with robustly. (...) Obviously, it's a one-way ticket, they can't then jump back on the plane and travel back to Denmark again and say "I made a mistake, I want to remain living in a deportation centre in Denmark" (...) We don't want Danish society to spend its own money on becoming a laughingstock. We are not a travel agency where we allow people to go home, and they are in Tehran for a while, and then they have regrets, so they come back to Denmark and so wander back and forth. (...) I'm a big supporter of flogging those who do not cooperate with the authorities.”

- Mattias Tesfaye, excerpts from Parliament consultations and media, 2020-21

“Decision-makers assume that poor living conditions during the asylum procedure and threats of deportation for those rejected will make them more likely to cooperate and leave the country. But the research doesn't support this. Conversely, the opposite also applies: good integration and satisfactory living conditions do not make people less likely to return home. Studies also show that many rejected asylum seekers fear for their safety if they return home, and that they often end up in a worse situation when they return home than when they left their home country. A refusal does not necessarily mean that they are safe in their home country, since not all types of risk fall within European asylum law. In addition, the wide differences in recognition rates in Europe show that you cannot be sure that decisions are always reliable. The very

fact that they have applied for asylum may pose a risk in itself for a rejected asylum seeker when they return. Finally, inaction during the asylum phase, traumatization triggered by uncertainty during the waiting period and the deportation process make it harder to be re-integrated. Education and work in the asylum phase can make it easier to integrate both for those granted asylum and who return home. The willingness to return home voluntarily will increase if the applicant has built up capacity and capital during the stay, and if there will be an opportunity to return to the host country. Finally, there is often a need to increase safety, stability and opportunities in the home country, which requires long-term projects.”

- Giulia Scalettari and Florence Gubert, 2018 (II)

PREVENTIVE MEASURES IN THE ASYLUM PHASE AND LEGISLATION

“First of all, one should ask oneself why people who really are afraid to return home, are refused? This should lead to an investigation and analysis of the asylum process in order to increase legal certainty and not just the formal but the actual opportunity to have one’s case fairly tried.”

- Annika Lindberg, researcher, University of Copenhagen

Too many wrong refusals are being made, and that is one of the reasons why some rejected asylum seekers find themselves trapped in the system. They are simply at risk in their home country and should have had asylum, and therefore nothing can convince them to return. Both the Immigration Service and the Refugee Appeals Board have a tougher practice towards many nationalities than the EU average, and do not follow the recommendations from the UN High Commissioner for Refugees or the UN human rights committees.

A number of measures would ensure that fewer people ended up in a deadlock:

1 a: Ensure access to thorough, independent advice

Benefiting from independent legal advice before the asylum procedure starts will help to uncover the full story and all the information from the start, and it can enable the applicant to trust the authorities and relax more so that they are better able to tell their account coherently and accurately. It would be a huge help for many, especially the most vulnerable, if a third-party could be present during interviews. This could result in some of the wrong refusals being prevented.

Advice and legal assistance are also needed after a refusal to clarify the opportunities available and to talk the situation through. This advice must, of course, be given by lawyers or independent organisations, and not by the authorities’ own officials such as those working for the Danish Return Agency. As the DRC points out in a 2019 note, many conversations may be needed over a longer period of time, to build trust and to clarify the situation (HH).

1 b: Decide whether removal is possible during the asylum assessment

An expert report commissioned by the Swedish state in 2017 recommended, inter alia, that the asylum assessment should consider whether the applicant could actually be deported if the application is refused – and where this is not possible to instead grant residence based on the obstacles to deportation identified. This may include certain stateless persons (Y). It is obvious that the authorities should not make a decision that cannot be implemented, and this should also be the case with deportation sentences, see below.

1 c: Address humanitarian issues during the asylum assessment

The asylum procedure assesses the need for protection as defined in The UN Refugee Convention and various other conventions. However, many other factors are also relevant to assess in relation to an asylum seeker's human rights and these should be assessed at the same time. Some of these grounds have specific paragraphs in the Aliens Act and an independent procedure under which you can apply if you are refused asylum. This applies, for example, to humanitarian residence (§ 9b), family ties and the best interests of the child (§ 9c (1)) and unaccompanied minors with no network in the home country (§ 9c (3)).

Each aspect is assessed in isolation according to its own paragraph – but in a person's life, there are often many different factors that, in the particular context, can constitute a violation of human rights. It would be much more efficient, time-effective and reliable to have all these assessed under one procedure, preferably with the opinions of medical or child experts where needed and with the right to appoint a lawyer/independent legal adviser.

Unaccompanied minors who are granted residence on the basis that they have no network in their home country, lose their residence permit on the day they turn 18 – even if they are well integrated and have built strong ties to the community. This practice should be changed so that as a starting point the residency is extended after they turn 18.

1 d: Change the practice of withdrawals and expulsion sentences, facilitate access to permanent residence and citizenship

Over the past 10 years, refugees have increasingly felt less confident of a future in Denmark. This runs counter to the Refugee Convention and the UN's recommendations, which aim at finding a durable solution in the host country. A refugee's residence permit should only be withdrawn if there are stable and sustainable improvements in the country of origin, refugees should be guaranteed the same rights as other citizens of the host country, and their access to citizenship must be facilitated. Today, even permanent residence is out of reach for the vast majority of refugees, even if they do their best to integrate.

Although many believe that criminals should be deported, the logical result of imposing an expulsion sentence on a refugee where he or she cannot be returned is that they end up on Tolerated Stay after serving their prison sentence, in a situation of indefinite limbo in terms of their rights. There is no rational reason to give Danish and non-Danish inhabitants different convictions for the same offence.

In all these areas, the Danish State actively – and needlessly – produces problematic cases where people are trapped in deportation centres. At the same time, this policy is very damaging to integration, as it creates fears for the future and a sense of a lack of belonging and unfair treatment. There is also a democratic problem in the fact that an increasing proportion of the population does not have citizenship, and thus does not have the right to vote.

“If a foreigner is not entitled to legal protection in a country – then the general rule is that the person does not have the right to continue to reside, and the State has the right to make the person leave the country – with the means it takes. But this discussion should be completely separate from the discussion about repatriating people who have been considered refugees, but where they are no longer considered to have protection needs. The UNHCR calls, inter alia, for Denmark to implement the following changes:

- *Cease the strict and regular review of protection needs and ensure that the standards and practice for granting protection status comply with Article 1C of the 1951 Refugee Convention.*
- *Standardize the length of residence permits for all three categories of protection.*
- *Grant a safe, stable status to refugees with long-term residence permits of at least five years.”*

- Henrik Nordentoft, UNHCR representative for the Nordic and Baltic countries

GENERAL TREATMENT OF ASYLUM SEEKERS

2 a: Offer an active life with competence building and shut down deportation centres

Those who decide to go home voluntarily typically do so quite soon after having their asylum application refused, while they are still relatively well-functioning and fresh, or because they have been able to maintain an active life through illicit work and a strong network. After several years in a deportation centre without work or education, people completely lose the ability to plan and make decisions – they fall into a state of hopelessness and apathy, unable to think about going home.

Therefore, it would be sensible to allow asylum seekers to stay as active and self-sufficient as possible – both throughout the asylum procedure and after a refusal. Even if they are not granted asylum in Denmark, they should at least go home in a slightly better state than when they arrived – today the opposite is true. Being trapped in the

asylum system in fact makes them even sicker than the traumatic experiences they experienced at home and on the journey here did. Instead, Denmark could choose to provide them with an education and treat their trauma as well as possible. Research shows that there is a greater chance of returning home if you have stayed active and can take something home with you.

The first deportation centre opened 5 years ago and has turned out to be both a misguided idea and a failure. Deportation centres are more than twice as expensive as residence centres, they break down residents much faster and do not lead to more voluntary or forced returns. On the contrary, the recommendations of researchers, actors in the field and refugees indicate the opposite should happen – stop monitoring, control and coercion and let the residents live as normal a life as possible. This will have a positive effect on both integration and repatriation.

Red Cross recommendations on rejected asylum seekers:

- *As a starting point, those refused asylum should be considered as cooperative, and offered help with the preparation process, if repatriation is not immediately possible. This should take place in a residence centre.*
- *The preparation process must be tailored to the individual and include, inter alia, an analysis of the barriers to repatriation, identifying competences needed for self-sufficiency in the home country, offers to build qualifications, cooperation with Danish companies active in the home country, research into housing opportunities and economic support to re-establish oneself.*
- *Families with children and people with health problems should be offered special support, including language lessons in the native language and a plan to access health care in the home country.*

2 b: Establish other modalities for accommodation

The current system of being forced to live in large centres, each of which are mini communities with a kindergarten, health clinic, second-hand clothing store and canteen, is incredibly expensive. It is also very inflexible, and the fluctuating entry figures mean that centres must be constantly shut down and new ones reopened elsewhere. Many asylum seekers can find accommodation with friends and family themselves if they receive a small amount to cover the costs. And those who are unable to would be a lot better off living in smaller residences which are linked to day centres with staff. The most vulnerable, who have special needs, should be offered accommodation in accommodation centres with specialized staff. It would save money, and asylum seekers would be allowed more autonomy and avoid many of the negative consequences of living in a camp.

2 c: End the detention of asylum seekers

It has long been known that detention does not produce any positive results, but nevertheless, this aggressive form of intervention is maintained. Instead, a change of direction is needed: asylum seekers should not be detained unless they have done

something criminal on an equal footing with other citizens. Detention for a few days in a closed section of a regular asylum centre could be used – but only if necessary, for example in connection with a forced deportation (which in any event is completely discouraged).

The harsh criticisms received from the Council of Europe's Committee for the Prevention of Torture did not lead the government to reconsider its policy. The criticism was not just about the unacceptable physical conditions, but also about the grounds on which liberty is curtailed. The detention of asylum seekers should be considered only as the last resort after everything else has failed (H).

Since October 2005, the National Police have not been eager to use the possibility of detention as a motivating factor, “as experience has shown that detention does not have the desired effect”, as commented by Ministry of Justice lawyers in relation to a 2013 bill proposed under the SRSF government.

According to Eurostat figures, there is no correlation between the use of detention (neither frequency nor length) and the number of voluntary returns. On the contrary, there are examples of the opposite effect: between 2018 and 2019, Greece increased the number of detentions from 32,000 to 58,000, but over the same period the number of voluntary returns dropped by 3,000.

According to PICUM (the European umbrella organisation for undocumented migrants) most foreigners enter Europe legally, but lose their legal residence later. PICUM has started a campaign to get states to use alternatives to detention, alternatives that demonstrably work, including “community case management”, where people are allowed to live locally while their case is being processed and are assigned a contact person.

The Council of Europe has published a handbook on alternatives to detention, listing a number of effective ways of keeping in touch with foreigners, without locking them up. The key is engagement rather than enforcement – that is, giving people incentives and opportunities to act rather than using coercion and the exercise of power (FF).

Another negative effect of detention is that rejected asylum seekers who have stayed for some time underground, refrain from seeking to reopen their asylum or family reunification case, because they are at high risk of being sent to Ellebæk if they re-enter the system.

“All the interviewees expressed the need to move away from detention practices for deportation, as these measures are at best ineffective and, at worst, directly counterproductive.”

- from the report AdMiGov, Kalir et al. 2021 (B)

2 d: Facilitate access to visas, both before and after asylum application

The strict Danish visa rules have various negative effects. Most people do not have a chance of obtaining a visa, either before or after an asylum application. Therefore, the only way they can get here is by risking their lives and health and by paying a fortune to smugglers. If you are one of the lucky ones who survives and reaches Denmark, you don't just give up again and go home – you know that you will never come back. If, on the other hand, it was easier to enter legally to visit family, study or look for work, fewer people would apply for asylum. And more would go home voluntarily if they knew they could come back again.

2 e: Ensure legal access to claim asylum

There is an absurd paradox that, on the one hand, Europe recognizes the right to seek asylum and have an asylum application considered, but on the other hand does everything in its power to prevent people from exercising that right. In other words, we recognize the right to get protection here if you are at risk in your home country. But before we will recognize that right, you must survive the 4,000 km journey through the desert, by foot over snowy mountains, the trip by rubber dinghy over the sea, the stay in the Libyan prison, the beatings with iron bars by border guards, the rapes, etc.

Until 2002, you could apply for asylum at the Danish embassies; the EU has developed a humanitarian visa; and the UN has already processed millions of refugees with protection needs in countries that border areas of conflict. There are no excuses at all for exposing vulnerable people to the dangerous journey and all the abuse. If Denmark worked for legal and safe access together with the EU and the UN, it could implement an asylum system with much more predictable arrivals and distribution, and less traumatized people.

UNHCR and the OECD published a study in 2018 on the alternative routes taken by refugees to seek a new life in a safe country, in addition to applying for asylum: work, study and family reunification. The study found that family reunification is by far the most used route, but unfortunately, it is being curtailed by politicians rather than expanded. The two organisations agree with the recommendation to facilitate routes for refugees to access safe countries, which also in the long-term means strengthening the development in the countries of origin through their diaspora (GG).

2 f: Open to sponsorship agreements

In a number of countries, a group of private individuals or an organisation can take responsibility for a refugee, in particular relating to integration efforts, a share of the support and help to find housing. There are different models in different countries, and a model tailored specifically to the context in Denmark would be needed to make it work. For example, it would be obvious to use it as an opportunity to allow refugees to have family members join them in addition to the nuclear family and biological children (which is no longer possible under the family reunification rules). In Refugees

Welcome, we often meet refugees who want to be allowed to look after their aging parents, or Danes who would like to 'adopt' a rejected asylum seeker they know. Both should be possible.

PRAGMATIC, SOLUTION-ORIENTED APPROACH TO UNRESOLVABLE CASES

The approach Denmark takes today to the unresolvable asylum cases is reminiscent of the discussion a few years ago for and against fixing rooms and legal heroin for drug addicts – without of course comparing drug addicts to refugees. Experts and professionals recommended offering drug addicts places where they could get clean needles and could take drugs in a safe environment, with nurses to help clean wounds, etc. Under special circumstances, clean heroin for the addict's own use would be available free of charge. Politicians were opposed to the idea, arguing that "it is illegal to take drugs, they must stop, and if we distribute heroin, there will be many more addicts." In the end, however, pilot schemes were carried out in Copenhagen. As predicted by the advocates, the result of the pilot scheme was that negative effects of drug abuse disappeared (especially infections, criminality and homelessness), which provided the supportive environment and necessary investment for drug abuse to be treated, so that the number of addicts could be reduced.

Similarly, one can argue for rejected asylum seekers: rather than society destroying their lives on purpose, there are only benefits to giving them access to live an ordinary life. A pragmatic approach is needed, based on research and experience.

"It is clear from the point of view of a welfare state, in the short term, rejected asylum seekers should be removed from the country. But from a humanitarian and global perspective, it doesn't make sense. Those who are deported create new problems that resurface one day – we do not live in the year 1800, when everything stayed as it was. Deportations lead to terrorism, crime, drugs, smuggling – see what happened after 9/11. We need to find voluntary, durable solutions."

- Fareed, Afghan refugee and researcher

"The authorities need to acknowledge that those who remain in a deportation centre for several years, don't do it for fun. Where a case has been mishandled, an automatic reconsideration of the case could be taken, for example after 5 years. Some of the cases at a complete impasse are caused by obstacles to deportation that should be relaxed. When a person agrees to and does cooperate to the best of their abilities it is unreasonable for the police to continue to say for years that they do not believe the person "is cooperating effectively". In this case a type of amnesty should be introduced after 2-3 years."

- Marianne Vølund, immigration lawyer

“There is a difference between those who have fled and those who are just looking for a better life. For those of us who cannot go back because we are in danger, it is okay to be here as long as we are safe. Anything is better than going back.”

- Syrian refugee granted asylum after he was moved to Kærshovedgård

3a: Use existing residence permit options for unresolvable cases

The legislation already provides a number of options for granting temporary residence to the majority of the people who have stayed in deportation centres for many years, as described on page 20: obstacles to deportation, humanitarian residence, best interests of the child, etc. However, the practical management of cases has gradually become so restrictive that these are almost never used. No legislative reform is needed to start interpreting them differently, just a series of practice notes from the Minister.

“When it has been 3, 4, 5 years, well then you've tried and done everything you can to send them home. So, save their lives and say they can stay here until further notice. Then they can contribute something.”

- Ibrahim, refugee from Palestine and Red Cross employee

3 b: Reconsider rejected asylum cases after a certain period of time

The grounds for refusal of asylum followed by the Refugee Appeals Board may have changed after a number of years, and therefore cases should be reconsidered after a certain length of time if a person has been rejected but has still not left the country. Conditions in the rejected asylum seeker's country of origin change continuously and the practice followed in similar cases may be different from before. Today, in order to ask for a claim to be reconsidered, the rejected asylum seeker needs to convince a lawyer or legal advisor to reviewing the case and request it be reconsidered. Unfortunately, cases are rarely reconsidered, even if there may have been errors in the interpretation or not all the information was presented.

“First you have to find out why they're scared. Some need to have their case re-considered because their fears are justified. For those who have nothing to fear but social destitution, a combination of education and money should encourage them to go home. These two in combination can prove effective, both as development aid for a developing country and as an incentive for repatriation.”

- Morten Goll, co-founder and manager of Trampoline House for 10 years

3 c: Allow application for residence on other grounds

Some rejected asylum seekers have taught themselves Danish, built up a network and maybe even a family during the years residing in Denmark. If they had access to the application procedure without going back to their home country, many of them would in fact satisfy the strict Danish requirements and legalize themselves through family reunification, or work or study permits. Only bureaucracy and a lack of willingness prevent them from being allowed to apply from Denmark. In many other countries in Europe, there are much better opportunities to legalize oneself throughout the process, if you make an effort.

3 d: Grant amnesty

There is no obvious reason why Denmark has never introduced any form of amnesty – a model widely used in many other countries when faced with a group of people who cannot be sent back and have established some obvious connection to the country. The closest we have come to are a few special laws – for the Palestinians in the 1980s and Bosnians in the 1990s. A number of NGOs, the UN and a larger movement of citizens mobilized to ask that amnesty be given to the 282 rejected Iraqis, some of whom moved into Brorson's Church in 2009. Instead, it ended up with many of them being forcibly returned, and a handful who had psychiatric diagnoses were granted humanitarian status.

If you do not want to set up the system so that situations like this are prevented or solved by existing legislation, some form of amnesty could at least be granted periodically to ensure that no one is permanently trapped in the system. There is no excuse for letting people live in this situation of limbo for anything up to 27 years.

“The Danish authorities know that there are certain countries where it is impossible to return people – Palestinians from Palestine, Somalis and other countries where the Danish authorities do not have return agreements. It is a waste to use so much money and resources on hopeless cases. They must assess which countries have this problem. I think it's completely stupid to not take a decision and do something different instead, e.g. grant a temporary residence permit so that the person can embark on an ordinary life, instead of keeping them in an asylum centre which destroys them and makes them sick. So, let them live an ordinary life until there are opportunities to send them home.”

- Ibrahim, refugee from Palestine, was granted residency after 12 years

3 e: Assign rights gradually according to criteria

As mentioned earlier, the Danish asylum system is very black and white. Either you get asylum, and then you have full rights*, or you get refused, and then you have no rights. However, consideration could be given to the gradual granting of rights to those who are refused, based on certain criteria. Those sitting in the deportation centres do not ask for a nice apartment and high benefits – they just ask for permission to be in Denmark, be allowed to get a job and to live in the community. Recognized refugees have a right to social and financial support, but for those rejected, a graded system for earning benefits could be introduced as an alternative to a hopeless life in a deportation centre.

*) However, there are qualifying periods for receiving financial benefits, and voting rights are only obtained with citizenship, which happens far into the future.

3 f: Develop alternatives to deportation and monitoring of returns

The policy and strategy on who can actually be sent home by force needs to be changed. Forced deportation is a violation that should be avoided at all costs. The studies that exist suggest that forced deportation creates a long list of problems and that it is not a viable solution. DRC writes in their Return Policy that forced deportations should be completely avoided (SS).

Individual plans should be made much more in cooperation with the rejected asylum seeker, perhaps allowing them to get a proper education before they travel – not just a week-long course, as provided for in the Danish Repatriation Act. Greater financial support for re-establishing themselves in the home country is also required. People need to have more than a sewing machine or some hairdressing equipment, and this must be provided in cooperation with NGOs in the home country, in such a way that the community also benefits from the support and ensuring that the returnee does not become a target for kidnapping, extortion, etc.

There is also a need to monitor what happens to returnees. At present, there is no systematic understanding of how they are doing.

“One solution to send someone home would be to offer them a permanent job with a decent salary. Some of the Danish companies might be interested in establishing themselves in Afghanistan, and there could be a mutual benefit from educating and training rejected Afghans in Denmark and securing them a job at home. It would also benefit the local community, and thus not expose returnees to so much negativity. Education alone is not a certainty, because there are plenty of highly educated people without a job in Afghanistan.”

- Fareed, Afghan refugee and researcher

“You may be able to persuade people from some countries to return if they get an education and some money to take with them, so that they can take care of themselves. However, if you have been in prison in Eritrea, then there is nothing on earth that will make you consider it. What is the worst place in Denmark? Ellebæk? Fine with me. I would rather be in prison in Denmark than be at large in Eritrea. My point is that the problem requires individual solutions, there are huge differences.”

- Yohannes, refugee from Eritrea and engineer

“You have to recognize that some people are too scared to leave. Many have been exposed to things that have scarred their body and soul. Reporting duties or incarceration will not help this. The one-sided focus on return, most recently reinforced by the creation of the Danish Return Agency is a barrier to a more holistic approach, where peace and stability is recognized as a prerequisite for ensuring a person considers voluntary return.”

- Martin Lemberg-Pedersen, Centre for Advanced Migration Studies (AMIS), University of Copenhagen

CONCLUSION

The current policy towards rejected asylum seekers is a mindless continuation of 38 years of failure. The establishing of deportation centres has not led to an increase in the number of removals back to countries of origin, but only increased the number of people who “disappear”. The hard line of putting pressure on rejected asylum seekers has extremely negative and directly harmful consequences, as well as high human and economic costs.

The reason for this failure is a total lack of understanding of how asylum seekers think and react, and the context from which they come. The system is therefore based on incorrect assumptions and politicians' gut feelings rather than on experience and facts.

There are already several options within the legislation that could solve many of the unresolvable cases in a more pragmatic way, and there is no evidence to support the claim that the number of new asylum seekers will increase for this reason. In any case, it must never be a goal in itself to avoid accepting refugees.

In addition, the problem is largely self-created by the Danish State and could in many ways be prevented. Today, the system produces rejected and unresolvable cases, and illegalizes increasing numbers of people. The desire to have control over foreigners leads to the opposite result: more people avoid any form of registration and live without rights, removed from society.

The report's recommendations are based on research, interviews with refugees, experts, employees in the asylum system and, not least, many years of experience from Refugees Welcome's advisory work. The recommendations will save society a lot of money and at the same time will equip people to play an active role in the global community instead of breaking them down. It is time that we changed course.

SHAKIB, AFGHANISTAN

Shakib left Afghanistan at the age of 13. He travelled to Europe through Iran, Turkey and Greece for several months. There he took a break and earned money collecting fruit on a farm, so that he could pay for his onward journey. In Italy, he slept for some time on the street next to Rome's main train station. From there, he slowly made his journey through France and Germany to Denmark. He didn't know much about the country except that it had been part of the coalition forces in his home country.

By the time Shakib reached Denmark, he had turned 15. The Danish authorities carried out an age-assessment and told him that as a minor asylum seeker he was protected from deportation until he turned 18. While his asylum application was being processed, he found peace, stability and hope. Shakib made good friends, worked with Danish children in a youth club, and began to hope for a future in Denmark. However, his asylum case was refused, and he knew that his 18th birthday would mean the beginning of the deportation process.

A few months before his birthday, he left the centre and travelled back to Paris, where he had stayed on his way to Denmark, and where he knew other Afghans, who had been refused asylum in Denmark and who had since been granted asylum. He spent the first months sleeping on sidewalks, under bridges and in camps where he met homeless French people, Roma families and others who, like himself, came from conflict zones around the world. He met various local NGOs and learned French, so he now spoke four languages: Dari, English, Danish and French.

Shakib found undocumented work as a cleaner in a Danish office in one of Paris' wealthy neighbourhoods where he was allowed to shower and charge his phone. The Danes there often told him how wrong it was that the Danish state spent money on a clever young man for three years, only to then try to deport him to a country to which Denmark had sent troops because the situation was so bad.

Although Shakib worked for a low wage, he could now leave his life on the streets and rent a small apartment with several other Afghans. A Dane living in Paris helped him with his asylum case. He chose to tell his case in Danish, as it had become the language in which he felt most at home. In the autumn of 2015, 18 months after he had arrived in Paris for the second time, and almost 5 years after he had left Afghanistan, Shakib was granted asylum in France. He was 19 years old.

Most unaccompanied minors go through an equally harsh and unreasonable journey – and the special § 9c (3) of the Aliens Act does not protect them (see page 24).

Read more about Shakib's journey and asylum applications in Denmark and France in Carolina Sanchez Boe: "The Undeported. The Making of a Floating Population of Exiles in France and Europe". Rowman and Littlefield, Challenging Migration Studies. 2021

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What should happen to people who are denied asylum?

It may seem obvious that all foreigners who are denied asylum should travel back to their home countries. However, the reality is not that simple. Only a few failed asylum seekers travel home, the vast majority disappear, and the rest are stuck in Danish asylum centres for many years. There are many reasons for this, including anxiety about returning home and also technical difficulties in obtaining travel documents.

For the past 38 years, different Danish governments have deployed the same strategy: to force rejected asylum seekers into giving up and returning home by making their lives as uncomfortable as possible. The strategy has never worked and it has a number of negative consequences. Researchers, actors in the asylum system and the refugees themselves are standing out against the politicians – and they all agree on how the problem can be relatively easily remedied.

In this report you can read how the situation for rejected asylum seekers has developed over time. You can find numbers and statistics, and you can read what the research in the field has shown, and more importantly reflect on the recommendations the report makes to address the problem.

The report is aimed at anyone who is interested in refugees – either through their work as journalists, politicians, integration workers, language teachers – or as volunteer contacts, neighbours, or activists.

About the author:

Michala Clante Bendixen has been dealing with refugees for 15 years. She has built up the organization Refugees Welcome, which offers legal advice to refugees, and the information site REFUGEES.DK. She is also the Danish country coordinator for the European Commission's integration website EWSI. In 2014, she was the first to receive the Human Rights Award in Denmark.

