

DECEMBER 2017

PREVENTION OF VIOLENT EXTREMISM AND RADICALISATION IN PRISONS

Survey: The impact on due process and human rights of the Danish Prison and Probation Service's submission of information scheme for reporting violent extremism and radicalisation.

SURVEY BACKGROUND

On the 14th and 15th of February 2015, the Krudttønden arts centre in Copenhagen, and Copenhagen Synagogue were the target of what has been described as the worst act of terrorism on Danish soil in recent times. One member of the public was killed and four police officers were injured in the incident at Krudttønden, while outside the Synagogue a volunteer security guard was killed and two police officers were injured. The perpetrator, who was shot dead by police shortly after the attacks took place, had recently been released from prison. This led to speculation concerning whether he had been radicalised during his time in prison.

Following the terrorist attack, and on the basis of an evaluation, the Danish government implemented a series of measures to consolidate efforts to combat radicalisation and extremism in prisons and detention centres. One of these measures was to tighten up the so-called submission of information scheme for reporting the behaviour of inmates in cases where there are concerns regarding potential radicalisation. Guidelines published in July 2015 stipulated that all instances of radicalisation of inmates

must be reported to the Danish Directorate of Prisons and Probation, which must in turn forward the submitted information to the Danish Security and Intelligence Service (PET).

In 2016, a number of organisations, including the Danish Prison Officers' Union and the Danish Bar and Law Society, expressed concern regarding the more rigorous submission of information scheme. As a result, and following a dialogue with the Directorate of Prisons and Probation, the Danish Institute for Human Rights decided to carry out the present survey of the submission of information scheme.

The aim of the survey is to assess the impacts on due process and human rights of the Danish Prison and Probation Service's submission of information scheme for reporting violent extremism and radicalisation.

We have reviewed a range of international guidelines on prevention of violent extremism and radicalisation in prisons produced in 2016 by, among others, the Council of Europe and the United Nations (UNODC), and we have also reviewed Danish regulations and the

Danish Prison and Probation Service's guidelines in the area.

In order to understand how radicalisation reporting takes place in practice, and the consequences of this reporting, we interviewed 11 prison officers and eight inmates at different Danish prisons. In addition, we interviewed two employees at the Directorate of Prisons and Probation and the chairman of the Danish Prison Officers' Union. A total of 22 interviews were carried out. These interviews were supplemented by a document analysis of submissions of concerns regarding radicalisation. We reviewed 259 concerns reported to the Directorate of Prisons and Probation (Koncern Sikkerhed).

The survey indicates that reporting concerns about an inmate can potentially have profoundly negative consequences for the inmate in question. These consequences may manifest themselves while the inmate is serving his or her sentence as direct consequences such as deferral or denial of release or probation.

They may also manifest themselves as derived consequences for the inmate such as (increased) exclusion and negative reactions from other inmates. The inmate may also suffer negative consequences after serving his or her sentence due to the requirement that, upon release, the municipality and the police/the Danish Security and Intelligence Service are notified regarding inmates about whom concerns have been reported.

It is vital that the Danish authorities focus on the security risk that may arise from radicalised, violent, extremist inmates during,

and in particular after serving, their sentences. It is clearly crucial to ensure that all violent, extremist and radicalised inmates are reported, i.e. that concerns regarding inmates are not under-reported.

However, it is also crucial to be aware that reporting concerns may entail potentially negative consequences for the inmate. These consequences can apply both during and after the term of imprisonment.

It is moreover important to be aware that incorrect reports and reports that are in conflict with the inmate's human rights entail a risk that the inmate will become (further) radicalised. This circumstance is emphasised in all international guidelines on prevention of violent extremism and radicalisation in prisons, and in research in the field. For this reason, it is also important to ensure that concerns are not unnecessarily over-reported.

The Danish Prison and Probation Service may decide to operate with a "safety margin" by submitting reports even in cases of doubt. However, unfounded and undocumented reports should be avoided as far as possible.

The risk of erroneous reporting and its potential negative consequences should be minimised to the greatest possible extent. To this end, the Danish Prison and Probation Service has implemented a number of measures, including training and education for resource personnel and establishment of a separate category 0, with respect to which the Danish Security and Intelligence Service will not be consulted .

BROAD AND ALL-EMBRACING DEFINITION

International guidelines on prevention of violent extremism and radicalisation in prisons agree that it is crucial to establish a precise definition of the concepts extremism and radicalisation. However, the Danish Prison and Probation Service's definition of extremism is rather broad and all-embracing.

In contrast to international guidelines and the October 2016 national action plan to tackle radicalism and extremism, the Danish Prison and Probation Service does not solely focus on how to prevent violent extremism: it also focuses on how to prevent extremism as a whole (see Chapter 6 below). This means that individuals who have extremist opinions, but are not "prepared to commit violence" are also covered by the Danish Prison and Probation Service's definition.

This broad definition can give rise to uncertainty on the part of prison staff regarding how to interpret the concepts extremism and radicalisation. In addition, the broad definition can contribute to an increased risk of infringing the inmate's right to privacy and freedom of religion.

THE RISK OF OVER-REPORTING

The survey indicates signs of over-reporting, in particular just after the 2015 terrorist attack. The interviews indicate that there is significant uncertainty on the part of prison staff concerning whether the reports were correct, together with a desire to support training and capacity in the area.

The prison officers interviewed speak of a "nervousness within the system" and of reports which "are hastily submitted", as well as "insufficiently substantiated" and/or

"patently incorrect" reports.

Misinterpretations of inmates' religious behaviour were also mentioned - e.g. inmates have been reported for praying five times a day or for wearing traditional clothing.

CONCLUSION AND RECOMMENDATIONS

Overall, the survey indicates the following:

- The Danish Prison and Probation Service's definition of extremism and radicalisation is broad and all-embracing.
- There has been, and continues to be, uncertainty regarding who should be reported.
- Reporting often takes place without basic legal safeguards for the inmate.
- There is a risk of contravening the inmate's right to privacy, freedom of religion and equal treatment.
- There are signs of over-reporting, in particular just after the 2015 terrorist attack.

Moreover, in the opinion of the DIHR, the legal basis for the compulsory disclosure of information to the police/the Danish Security and Intelligence Service and municipalities is questionable (see Chapter 7.3 below).

In May 2017, the Directorate of Prisons and Probation stated in writing that all reports had been reviewed and that since August 2016 it had been standard practice to review reports received in order to ensure correct and up-to-date security evaluation and categorisation.

During the past last year, e.g. via the January 2017 amendments to guidelines on violent

extremism and radicalisation, the Directorate has implemented additional measures aimed at safeguarding due process for inmates as regards the submission of information scheme, for instance enabling the withdrawal or toning down of reported concerns (see Chapter 3 below). In order to ensure that future reporting is as correct as possible, and to limit potential negative consequences of reporting, the Danish Institute for Human Rights recommends that the Danish Prison and Probation Service:

- on a regular basis register and oversee the consequences reported concerns have had for individual inmates, e.g. as regards refused release and probation (see Chapter 5).
- clarify and restrict the definition of extremism such that it applies solely to violent extremism. The 2016 international guidelines on violent extremism and radicalisation in prisons and the 2016 Danish national action plan to tackle radicalisation solely apply to violent extremism (see Chapter 6).
- If, in the opinion of the Danish Ministry of Justice/the Directorate of Prisons and Probation, it is necessary to operate with a broader definition of extremism in the Danish Prison and Probation Service to also encompass extremist attitudes, the Ministry/Directorate should state in more detail the reasons for doing so, and explicitly state their position regarding the negative consequences of a broader submission of information scheme, including the impact of such a scheme on inmates' human rights.
- ensure that there is a satisfactory procedure for identifying and reporting violent extremism and radicalised inmates,

including ensuring that assessment is carried out by a specially trained multidisciplinary team with knowledge about radicalisation working as closely as possible with the inmate (see Section 7.1).

- ensure that reported inmates are protected by individual due-process guarantees, including grounds, contradiction, as well as appeals procedures and appeals guidelines (see Section 7.2).
- pursuant to the scheme described in section 115(4) of the Danish Administration of Justice Act, only disclose reported concerns to the police, the Danish Security and Intelligence Service and Danish municipalities on the basis of a specific needs assessment. The Danish Security and Intelligence Service may, on the basis of a specific assessment (suspicion), request information pursuant to section 4 of the Danish Security and Intelligence Service Act (see Section 7.3).
- ensure that there are clear and precise rules governing how the Danish Prison and Probation Service manages reported concerns (see Section 7.3).
- maintain continual focus on potential negative impacts on inmates' human rights as a consequence of being reported (see Chapter 8).

In this report, we also present a number of more specific recommendations to consolidate due process for inmates and their human rights with respect to the submission of information scheme. The general and specific recommendations are listed in the concluding chapter, Chapter 9.

In May and June 2017, the Directorate of Prisons and Probation stated in writing that, during the preparation of this report, a number of adjustments to the Danish Prison and Probation Service's procedures had been implemented. This implies that there were already plans to implement the majority of the report's recommendations in the procedures. These adjustments are described in more detail below in the relevant sections.

FULL REPORT ONLINE (IN DANISH)

Go to [the digital publication](#) on menneskeret.dk

Published in 2017 by The Danish Institute for Human Rights.

CONTACT

Lisbeth Garly Andersen
Chief Advisor, Equal Treatment
The Danish Institute for Human Rights
+45 9132 5699 / lga@humanrights.dk

Peter Vedel Kessing
Senior Researcher, Research Department
The Danish Institute for Human Rights
+45 9132 5743 / pvk@humanrights.dk