**Response of Denmark to questionnaire on contemporary forms of slavery, including its causes and consequences to elaborate a comprehensive report on the role of organised criminal groups with regard to contemporary forms of slavery**

**Key questions and types of input sought**

**1. Types of criminal groups involved in contemporary forms of slavery**

a) Is there evidence of organised criminal groups[[1]](#footnote-1) engaging in contemporary forms of slavery[[2]](#footnote-2) in your country?

Danish police has no evidence or records of organized criminal groups involved in slavery.

b) If so, please provide further information about these groups, including their names, social, cultural or ethnic profiles, and structures (e.g. large hierarchical groups or networkbased small groups working individually or in collaboration with others).

c) Do these criminal groups operate domestically or internationally?

**2. The nature and extent of criminal groups’ involvement in contemporary forms of slavery**

a) What is the nature and extent of the involvement of organised criminal groups in contemporary forms of slavery in your country?

No information, since Danish Police has no evidence or records of organized criminal groups involved in slavery.

b) Is there information regarding individuals being exploited by organised criminal groups in criminal activities (e.g. drug production, theft, etc.)?

No information, since Danish Police has no evidence or records of organized criminal groups involved in slavery.

c) Is there evidence of individuals being exploited in legitimate businesses run by organised criminal groups, such as agriculture, domestic work, construction and catering?

No information, since Danish Police has no evidence or records of organized criminal groups involved in slavery.

d) Is there evidence of corruption (e.g. bribery) and obstruction of justice (e.g. witness & jury intimidation) committed by organised criminal groups? If so, in what way does this affect victims/survivors of contemporary forms of slavery?

No information, since Danish Police has no evidence or records of organized criminal groups involved in slavery.

e) Does the involvement of organised criminal groups in contemporary forms of slavery pose additional challenges in the identification of victims? If so, please provide details.

No information, since Danish Police has no evidence or records of organized criminal groups involved in slavery.

**3. Legislative Frameworks**

a) In addition to legislation relating to contemporary forms of slavery, does your country have any statutory frameworks criminalising the activities of organised criminal groups (e.g. participating, leading/directing, organising or being a member)? If so, please provide details, including statistical information on prosecutions/convictions if available.

The Danish Criminal Code section 132 a prescribes that any person who contributes to the continuation of an association or a society provisionally prohibited by the Government or dissolved by judgment can be sentenced to a fine or imprisonment for a term not exceeding two years. A person who falls within this section can also be sentenced to imprisonment for a term not exceeding six months for possessing or using the insignia of an association or society at an institution of the Prison and Probation Service or with the intent to disseminate to a wide group of people after the association or society has been provisionally prohibited or dissolved.

Furthermore, section 132 b of the Danish Criminal Code prescribes that the police can ban a person who has been closely affiliated with an association or a society provisionally prohibited by the Government or dissolved by judgment from entering or staying at specific locations if such ban is deemed to be of considerable significance to prevent the continuation of the association or society. The police can also order persons taking part in an assembly of persons with affiliation to such an association or society at a specific location to leave the place if it is likely to give rise to insecurity among neighbours or passers-by.

b) Do the legislative frameworks on contemporary forms of slavery stipulate the involvement of organised criminal group as an aggravating factor increasing penalties?

According to section 262 a (1) of the Danish Criminal Code, a penalty of imprisonment for a term not exceeding ten years for human trafficking is imposed on any person who recruits, transports, transfers, harbours or subsequently receives another person who is or has been subjected to -

1. duress as defined in section 260;
2. deprivation of liberty as defined in section 261;
3. threats as defined in section 266;
4. the wrongful creation, confirmation or exploitation of a mistake; or
5. any other improper procedure;

to exploit such other person for prostitution, the taking of pornographic photographs, the recording of pornographic films, pornographic performances, forced labour, slavery, practices similar to slavery, criminal acts or the removal of organs.

According to section 262a (2), the same penalty is imposed on any person who, for the purpose of exploitation of such other person for prostitution, the taking of pornographic photographs, the recording of pornographic films, pornographic performances, forced labour, slavery, practices similar to slavery, criminal acts or the removal of organs -

1. recruits, transports, transfers, harbours or subsequently receives a person under 18 years of age; or
2. gives payment or other benefit to achieve the consent to such exploitation from a person having control over the victim from the person receiving such payment or benefit.

When determining a sentence, it must normally be considered an aggravating circumstance that the act had been carefully planned or was a constituent element of major crime, cf. section 81 (1) (iii) of the Danish Criminal Code.

According to the preparatory work of the act, this will usually involve professional or more systematic crimes with several people involved, However, depending on the circumstances, the provision will also be applicable where only one person is involved. It is not necessary that the offender played a decisive role in the planning or the execution of the crime. Depending on the circumstances, the provision will also be applicable on persons who do not have a superior position in the criminal organization.

c) Does your country have legislative frameworks to promote intelligence-led law enforcement (the use of special investigative techniques such as surveillance and interception of communications) to combat contemporary forms of slavery?

The use of coercive measures and investigative measures is regulated in chapters 71-75a of the Danish Administration of Justice Act and includes 1) limitation of the secrecy of communications, observation, data reading, interference or interruption of radio or telecommunications, blocking of websites and acquisition of television surveillance, 2) intrusion, 3) searches, 4) seizures and discovery and 5) pre-sentence reports on the defendant.

d) Given the human rights implications arising from intelligence-led law enforcement (such as the rights to privacy and a fair trial), do these legislative frameworks provide for sufficient safeguards against abuse (e.g. judicial or other approval and oversight and grievance mechanisms in case of an abuse of process)?

In general, the police need a court order to initiate coercive/investigative measures. However, the police has the authority to carry out certain of the less intrusive coercive/investigative measure, e.g. to take fingerprints.

If the purpose of the measure would be lost, if the police had to await a court order, the police can initiate the measure without a prior court order. However, the police must present the measure before the court within 24 hours of initiating the measure. The court will then decide if the conditions for initiating the measure were present, and if the purpose of the measure would have been lost if the police had to await the court order.

Moreover, the principle of proportionality applies to all the coercive/investigative measures.

Certain measures (e.g. limitation of the secrecy of communications and data reading) must not only be approved by the court, but the court also needs to appoint a lawyer for the person against whom the measure is directed. The lawyer must be informed about all court hearings and is entitled to attend these as well as to familiarize himself with the material provided by the police.

e) Does your country have legislative frameworks on money laundering and criminal asset recovery (or confiscation of criminal proceeds)?

According to section 290a of the Danish Criminal Code, any person who converts or transfers money that is a direct or indirect proceed of a criminal offence in order to conceal or to obscure the illegal origin, is sentenced to a fine or imprisonment for a term not exceeding one year and six months for money laundering.

Sections 75-77a of the Criminal Code relate to confiscation of criminal proceeds.

According to section 75 (1), the proceeds of a criminal act, or a corresponding amount, may be confiscated in full or in part. Where the basis for determining the size of such amount is insufficient, an amount deemed equivalent to the proceeds made may be confiscated.

If deemed necessary to prevent further offences or otherwise justified by special circumstances, the forfeiture of the following items may be ordered: items used for or intended to be used for a criminal act, items produced through a criminal act and items otherwise involved in a criminal act, cf. section 75 (2).

Instead of forfeiture of such items as referred to in subsection (2), an amount corresponding to the full or partial value of such items may be confiscated, cf. section 75 (3). Instead of forfeiture under subsection (2), a decision may be made about measures relating to the items to prevent further offences, cf. section 75 (4). Where an association or a society is dissolved by judgment, an order of forfeiture of its assets, archives, records, etc., may be issued, cf. section 75 (5).

According to section 76a, property owned by a person found guilty of a criminal act may become subject to forfeiture in full or in part where -

1. the act is of such nature that it may generate substantial proceeds; and
2. the act is punishable by imprisonment for at least six years according to law or is contrary to the legislation on controlled substances.

No forfeiture can be ordered if the relevant person renders probable that the property was acquired lawfully or with lawfully acquired funds, cf. section 76a (4). Instead of forfeiture of specific property, an amount corresponding to the full or partial value of such property may be confiscated, cf. section 76a (5).

If a confiscation or forfeiture order is made under section 75 (1) or 76a and someone has a claim for compensation due to the offence, the property subject to confiscation or forfeiture may be applied to settle the claim for compensation, cf. section 77.

f) Does your country also support civil asset recovery without criminal conviction? If so, please provide details including any safeguards in place.

Victims of human trafficking are entitled to demand compensation from the offenders either in connection with the criminal proceedings, in line with section 685 of the Danish Administration of Justice Act, or in a civil court procedure. It is possible for a victim to claim compensation in a civil procedure also independently of the criminal procedures.

g) How does your country deal with corruption and obstruction of justice committed by organised criminal groups in relation to contemporary forms of slavery?

There are several provisions in the Danish Criminal Code relating to corruption and obstruction of justice.

According to section 122, any person who unduly gives, promises or offers to someone performing a public function or office with a Danish, foreign or international public organization a gift or another benefit to make the relevant person perform of fail to perform such function or office is sentenced to a fine or imprisonment for a term not exceeding six years.

According to section 144, any person who unduly receives, demands or agrees to receive a gift or another benefit in the exercise of a Danish, foreign or international public function or office is sentenced to a fine or imprisonment for a term not exceeding six years.

According to section 278, a person is guilty of embezzlement if, to obtain an unlawful gain for himself or others, he -

1. appropriates any tangible property in his possession, where the offence does not fall within section 277;
2. denies the receipt of a cash loan or other property left in his care for ownership or of any service for which remuneration is payable; or

wrongfully spends money entrusted to him even though he was not obliged to keep it apart from his own assets.

h) What legislative and other mechanisms are in place to protect witnesses in criminal proceedings involving organised criminal groups?

In terms of measures to provide security to victims of trafficking a number of safeguards may be applied, including safeguards related to court hearings, where the court may decide that a potential perpetrator should not be present at the court hearing while a potential victim testifies.

According to section 856 of the Administration of Justice Act, the presiding judge may decide that the defendant should not be present in the court room during the witness’ testimony if the defendant’s presence will inhibit the witness in giving testimony. The court may also decide that the name, occupation and addreses of a witness, including the victim, must not be disclosed to the defendant. Such decisions may be taken by the court prior to a hearing upon a request from the prosecution service, the defence lawyer or a victim/witness.

According to section 29 of the Administration of Justice Act, the court can decide that the court proceedings will not be open to the public if the victim is considered to be in danger.

The Danish Police Intelligence Service (PET) can, in situations of exceptional threats, include a witness in the witness protection programme. In each case, the relevant police district makes a concrete assessment of the protection measures required, and if there is a need for assistance, PET is contacted in order to assess whether there is a basis for using the witness protection programme and whether the person in question is suitable to be included in such a programme. The witness protection programme is not solely intended for witnesses in criminal cases, but also for persons who are for other reasons exposed to serious threats.

**4. Victims’/survivors’ access to justice and to remedies**

a) What types of assistance (e.g. legal, medical, social and financial) is provided to victims who have been enslaved by organised criminal groups?

In the guidelines from the Director of Public Prosecutions, in the section on guidance of the injured person (vejledning af forurettede), general guidelines to the prosecutors and to the police on how to inform victims (in general) about support services and legal measures available to them are set. The prosecutor have to inform and guide the victim about the case. The information and guidance should be given regularly and includes information about the court case, witness rights and duty, getting help throughout the process and the possibility of getting a support lawyer.

Pursuant to section 741(c) of the Administration of Justice Act, the court shall assign a lawyer to a victim of trafficking during criminal proceedings at the victim’s request. Their tasks include explaining the procedures, informing victims about access to psychological and social support and the right to compensation, assisting them in court, handling the compensation claim and providing assistance if the victim applies for asylum or residence. The lawyers are entitled to participate in the police questioning of the victim and can ask follow-up questions to the victim. Furthermore, the lawyer has access to the victim’s statements as well as other documents regarding the victim. The lawyers are assigned free of charge for the victims. If the victim is suspected of having committed a criminal offence him- or herself, a defence lawyer should be assigned instead.

In addition to the information that the victim receives at the beginning of the case the victims will be notified by letter of their right to have their compensation claim processed in connection with the criminal proceedings when the indictment is brought. The support lawyer will assist in calculating the claim and setting forth the actual claim in court.

Further, a victim of e.g. human trafficking and other serious crimes can be assigned a contact person within the police, if the police considers that the person in question might have to witness in court. The contact person will often be a police officer and gives guidance and information on the rights of the victim of human trafficking and the legal process.

All officially identified victims of human trafficking are offered support and assistance under the National Action Plan to combat Human Trafficking. Assistance is offered regardless of gender, sexual orientation, gender identity, age, nationality or form of exploitation.

As part of support and assistance, Danish Center against Human Trafficking (CMM) appoints a contact person to all victims, who is responsible for coordinating the assistance to victims of trafficking with the aim of ensuring that all victims are offered accommodation, access to medical care, psychological assistance, counseling and information adequately regardless of geographic location within the country.

Support and assistance is offered unconditionally to all victims for the first 30 day period of the reflection period. The reflection period may be extended up to 120 days, if the victim accepts the Assisted Voluntary Return scheme. Further assistance depends solely on the cooperation with CMM and social organizations on the further progress of the case, eg. prepared return to country of origin or residency.

Victims of trafficking, who are foreign nationals and who are required to or wish to leave Denmark, are offered prepared repatriation and financial reintegration support. Prepared reintegration aims to support victims in returning to their home country and moving on with their lives. Authorities make an individual reintegration plan fitted to the needs and wishes of the individual victim. Reintegration support is given in-kind and cash for up to six months.

b) Is provision of such assistance linked to a formal victim identification process and/or cooperation in criminal investigations and proceedings?

Reference is made to the answer to question a)

Assistance is provided on the basis of formal victim identification. Cooperation in criminal investigation is not a precondition for assistance.

c) What mechanisms/channels exist for them to access justice and remedies, and in which ways are they able to participate in criminal proceedings?

Reference is made to the answer to question a)

According to section 724 of the Administration of Justice Act the victim shall be notified of the police's decision not to open an investigation, to discontinue an investigation and of the Prosecution Service decision not to bring formal charges in a case. The victim can file a complaint to the State Prosecutor.

d) Can victims/survivors of slavery receive compensation in your country and if so, compensations to how many victims have been paid? Please provide details in this regard.

Victims of e.g. trafficking are entitled to demand compensation from the traffickers either in connection with the criminal proceedings, in line with section 685 of the Administration of Justice Act, or in a civil court procedure. It is possible for a victim to claim compensation in a civil procedure also independently of the criminal procedures. To claim compensation in criminal court proceedings the victim does not need to be present in court. The Director of Public Prosecutions is not in possession of information on how many victims have been paid compensation.

Victims are in general entitled to claim compensation from the perpetrators either in connection with the criminal proceedings or in a civil court procedure, after the criminal law proceedings have ended. Such claims may concern compensation for material or moral damage, as well as unpaid wages. It is the court which determines the merits of a claim and the amount of compensation awarded. To claim compensation in criminal proceedings the victim does not need to be present in court, whereas s/he need to be present or be represented by a lawyer in civil proceedings. Victims are notified by the police in writing of their right to have their compensation claim processed in connection with the criminal proceedings when the indictment is brought. The support lawyer assists in calculating the claim and setting forth the actual claim in court.

Compensation is calculated in accordance with the general rules of Danish law. Compensation for personal injury as well as property damage can be covered if the general compensation terms are met. As far as personal injury is concerned, the victim can get compensation for lost earnings, health expenses, pain and suffering, permanent injury and loss of earning capacity..

The state may award compensation and damages for personal injury inflicted as a result of violations of the Criminal Code or the Act on Restraining, Exclusion Orders and Expulsion. The eligibility criteria are laid down in the Act on State Compensations to Victims of Crime. A prerequisite for a state compensation claim is that a crime has been committed, but eligibility is not linked to whether the perpetrator is found guilty or not in a criminal case. It can be awarded if there is no known perpetrator or no court order, if the perpetrator did not pay, and if the perpetrator is less than 15 years old or not considered sane and thus cannot be considered responsible for his or her actions. The right of victims to claim state compensation is not linked to immigration status. A compensation claim can be submitted after the victim has left Denmark. A victim cannot receive state compensation if the offender provides compensation or if the injury or the victim is covered by insurance.

Applications for state compensation are handled by the Criminal Injuries Compensation Board, which is composed of a chairman (a high court judge, one member nominated by the Council of the Danish Bar and Law Society, and another member nominated by the Ministry of Social Affairs and Senior Citizens).

State compensation is calculated in accordance with the general rules of Danish law. The amount of state compensation for violation of personal integrity depends on the nature of the crime as well as the victim’s age.

It is not a requirement that the applicant has a lawyer in relation to the state compensation proceedings. If the applicant does not have a lawyer, the Compensation Board is obliged to advise the applicant in the case.

There have been three claims for state compensation in modern slavery cases since 2016, all of which concerned claims for compensation and damages for personal injury. In the first case (2018), the applicant was awarded 50,000 DKK (about 6,700 Euros) in moral damages by the Criminal Injuries Compensation Board. In the second case (2018), the Compensation Board awarded 50,000 DKK (about 6,700 Euros) in moral damages and 183,000 DKK (about 24,600 Euros) in damages for permanent injuries to a victim of human trafficking. In the third case (2019), the Compensation Board rejected the claim, because it was determined that the applicant had not suffered any personal injury.

e) Are confiscated criminal proceeds redistributed to enhance protection and assistance to victims and survivors? Please provide details.

Confiscated property is generally transferred to the State unless it is used in satisfaction of a claim for damages stemming from the crime. The prosecutor can make a claim for confiscation regardless of whether a claim for damages exists.

f) Does your country implement the non-punishment principle whereby the victims of contemporary forms of slavery are protected from criminal prosecutions even if they are allegedly involved criminal activities?

In the guidelines on trafficking from the Director of Public Prosecutions instructions on how the non-punishment provision should be applied in relation to victims of THB are set. Pursuant to the guidelines, an indictment shall be waived pursuant to section 722 (2) of the Administration of Justice Act if the suspect is a victim of human trafficking, provided that the alleged offence relates to the trafficking and cannot be characterized as a serious crime. Indictments can be waived in cases of forgery or use of false documents with regard to passports, identity papers or similar violations of the Aliens Act. Indictments can also be waived if a person was trafficked and force to commit criminal acts. A victim of trafficking prosecuted for a serious offence may have their penalty reduced on the grounds of trafficking pursuant to section 82(6) of the CC (mitigating circumstances) and/or section 83 of the CC (reduced sentences).

Further, it is stated in the guidelines that victims of trafficking as a point of departure shall not be deprived of their liberty and that it should always be considered whether accommodating a trafficking victim in a crisis centre or similar place would not be sufficient for securing the presence of the person.

**5. Other Questions**

a) What are the key challenges in combating contemporary forms of slavery committed by organised criminal groups in your country?

Danish police has so far not seen any involvement by organized criminal groups and their exploitation of people for slavery.

b) Does your country make use of international cooperation tools to tackle transnational organized crime as it relates to contemporary forms of slavery (e.g. Mutual Legal Assistance, joint investigations, extradition, etc…)? Please provide details.

Since Danish police has not detected any organized groups related to slavery, there has not been any international cooperation.

c) Has COVID-19 had an impact on the modus operandi of the organised criminal groups which operate in your country and if so, in what way?

Not relevant. See answers above.

d) Please provide any additional information which you deem relevant with regard to the subject matter of this questionnaire.

Nothing further to add.

1. In accordance with the UN Convention against Transnational Organised Crime, an organised criminal group means “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.” [↑](#footnote-ref-1)
2. They include, but are not limited to, traditional slavery, forced labour, debt bondage, serfdom, children working in slavery or slavery-like conditions, domestic servitude, sexual slavery, and servile forms of marriage. [↑](#footnote-ref-2)