

Denmark's response to the questionnaire on principles of public prosecution as regards juvenile justice:

I. Criminal justice system.

1. In Denmark, the minimum age of criminal responsibility is currently 15 years.

The Director of Public Prosecutions has issued specific guidelines concerning the handling by the Police and Prosecution Service of criminal cases against young offenders (Instruction no. 4/2007).

Juveniles between the age of 12 and 14:

According to the Administration of Justice Act (AJA) the Police can detain a 12-14 year old offender for a short period of time if the conditions for arrest are fulfilled. The child can be detained in the police station e.g. while being interrogated and can as a general rule only be detained for up to six hours. If the crime is serious e.g. assault or gang related crime and it is imperative to the investigation, the child can be detained for more than six hours. However, the child can never be detained for more than 24 hours and cannot be placed in a room on its own for more than 6 hours.

If the Police are detaining a child, the social services and the parents have to be notified. Also, a representative from the social services as a general rule has to be present during a police interrogation. In cases of violent crime or other kinds of serious crime, the social services have to draw up a plan on how to give the child the support necessary and prevent the child from committing crimes in the future.

According to AJA a child under the age of criminal responsibility can be offered (free) legal assistance, if this is needed due to the complexity or seriousness of the case (e.g. murder or aggravated assault) or if the child is facing a very high claim for compensation.

Juveniles between the age of 15 and 17:

Where the offender is 15-17 years old the social services have to be notified to the same extent, as is the case with younger children.

Furthermore the Prosecution Service will ask the social services to recommend which type of sanction they find suitable for the offender in question. The prosecutor will then present the social services' recommendation to the court.

In Denmark, an accused - including a 15-17 year old accused - can be detained on remand when there is a substantiated suspicion that he has committed an offence, which is prosecuted by the State, if under the law, the offence can result in imprisonment for one year and six months or more, and there are specific reasons to presume, that he will abscond from the prosecution or the enforce-

ment of the sentence, if there are specific reasons to fear that he at large will commit another offence, or if there are specific reasons to presume, that the accused will impede the prosecution of the case, particularly by removing evidence or warning or influencing others.

An accused can also be detained on remand when there is a particularly confirmed suspicion that he has committed an offence which under the law can result in imprisonment for six years or more, and due regard to enforcement of the law taking into account the seriousness of the matter, is found to require that the accused is not at large.

Finally, detention on remand can take place if the offence is a violation of e.g. the Danish Criminal Code's (DCC) sections on assault and can be expected to result in an unconditional sentence of imprisonment for at least 60 days and due regard to enforcement of the law is found to require that the accused is not at large.

However according to AJA, detention on remand cannot be used if the offence can be expected to result in a sentence of a fine or imprisonment for any term not exceeding 30 days, or if the deprivation of liberty will otherwise be disproportional to the hereby caused intrusion in the affairs of the accused, the significance of the case, and the sanction that can be expected if the accused is found guilty.

If the conditions for detaining on remand are fulfilled, but the purpose of the detention can be attained through less interfering measure, the court renders, if the accused consents hereto, such a decision in the place of detention. E.g. the court can decide that the accused shall reside in a suitable home or institution.

When the accused is 15-17 years old detention on remand is generally considered disproportional if the accused is to be put in a prison amongst adult offenders for a longer period of time. Therefore, before the court hearing, in order to avoid a disproportional deprivation of liberty, the prosecution will seek to ensure that a secured youth institution is able to receive the accused.

Furthermore, when the accused is 15-17 years old the AJA establishes maximum detaining periods (depending on the seriousness of the crime), that are significantly lower than those that apply to adult offender normal.

2. No

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4. The Danish Criminal Code does not prescribe the use of specific sanctions for juveniles in connection with specific offences. As described under question 5 special sanctions for juveniles exist and are used by the court when the conditions for using them are fulfilled.

According to DCC, however, the prescribed penalty for a crime can be lowered if the offender was less than 18 years old when he committed the crime. Furthermore, the penalty in respect of such offenders may not exceed imprisonment for eight years.

As regards child victims a video recording of the police interrogation of the child can and is (especially in sexual abuse cases) used as evidence in court. Video recordings are used when child victims are 12 years old or less, but can if needed also be used in relation to child victims who are older than 12 years. As a general rule, however, children who are 12 years or older have to give evidence in court. In these cases the prosecutor can request the court to decide on a number of measures that will make the giving of evidence less stressful for the child. For instance, the court can make a decision on proceedings behind closed doors, on reporting restrictions, on prohibition of the publication of names of the defendant, to the effect that the defendant shall leave the courtroom during the child's testimony, or that the child's address and/or address must not be disclosed to the defendant.

5. The prosecutor will before a court hearing consider whether or not to ask for detention on remand and if the circumstances of the case necessitates detention on remand, the prosecution will before the court hearing seek to ensure that a secured youth institution can receive the accused, should the court decide that the conditions for detention on remand are fulfilled. Please see the answer to question 1.

When detention on remand after conviction is considered necessary, the prosecutor will in his final address to the court, ask the court to decide on the issue. In such a case the prosecutor ensures that police can escort the accused to an institution after the verdict. Furthermore the prosecutor will in some cases be involved in the prison service's considerations concerning which institution the convicted youth should be moved to after the sentence.

15-17 year old children are only sentenced to imprisonment in serious cases or in case of repeat offences. In most cases one of the special youth sanctions will be imposed.

One possibility in minor cases against youth offenders is to impose a fine or to drop the indictment. These sanctions can only be imposed if the offender has admitted his guilt. Furthermore, these sanctions as a general rule cannot be used in cases concerning violent crime e.g. assault, robbery.

Sometimes a decision to drop the indictment will be conditioned by the offender signing a contract (a youth contract) in which he or she commits to e.g. returning to school, participating in sports, or paying compensation to the victim. This type of sanction is directed at young offenders who have not yet displayed a more permanent crime pattern and who are convicted of minor economical crime, such as theft and property damage.

The youth contract is drafted by the social services in cooperation with the offender and his or hers parents and has to be approved by the police/prosecution and the court.

In cases against offenders who are 15-17 years old suspended sentences are also used, sometimes conditioned by community service.

Finally, the so called “youth sanction” is used in more serious cases. This sanction is only used in connection with serious crime such as assault, robbery and rape, if the offence – If the offender had been 18 years or older – would have resulted in a sentence of between 30 days and 1 year of imprisonment. The youth sanction is only applied to offenders, who commit crime of a particular violent nature and who have displayed violent behavior due to e.g. lack of ability to adapt and create normal social relations.

The youth sanction lasts two years and the main content of the sanction is longterm social pedagogical treatment. During the first stage of the sanction the youth will be placed in a secured institution for a month or two in order to determine what kind of treatment is necessary. During the second stage of the sanction the youth will be placed in an open institution, where the youth e.g. can be treated for alcohol or drug abuse or receive other types of treatment or support. This stage of the sanction usually lasts about a year. During the third and last stage of the sanction the youth can stay at home, but is still supervised and followed by the social services.

6. None.

7. At local level, the Danish Police and Prosecution Service are one service headed by a Commissioner of Police. Thus, the cooperation between Police and Prosecution during the investigative phase can be very close if needed. E.g. the prosecutor can ask the investigating police officer to ask specific questions during an interrogation, just as the prosecutor can ask the police officer to initiate further investigative steps. The Police notify social services when a person under the age of 18 is arrested. Furthermore, social services as a general rule are present during the police interrogation. The prosecutor will prior to the trial ask social services to recommend which sanction they regard as appropriate in a specific case and the prosecutor will present the recommendation of the social services to the court.

II. Civil justice system and administrative proceedings

8. None

9. No

10. None

11. In child abduction cases the prosecutor is responsible for prosecuting the case against the offender. There have, however, been cases, where the Prosecution Service has been involved in the safe return of the child by issuing a guarantee to the abducting parent stating that if the child is

returned safely within a set period of time the Prosecution Service will waive prosecution of the case.

12. See the answer to question 1

III. Other remarks

The Danish Government is currently considering lowering the age of criminal responsibility to 14 years. Furthermore, the Government is considering amending the Danish Criminal Code so that the limit on the time of imprisonment for young offenders described under question 4 is replaced by a section stating that a person, who was below the age of 18 at the time of committing the offence, cannot receive a life sentence.