

## **I have been detained - what happens now?**

You have been detained by the police according to section 36 of the Consolidated Aliens Act (Udlændingeloven). You have the right to a lawyer during your detention. Your lawyer alone is responsible for your interests.

You will no doubt have a number of questions you would like answered, which is why a number of experienced lawyers have produced this pamphlet, which explains what your lawyer can do for you when you are detained according to section 36 of the Consolidated Aliens Act (Udlændingeloven).

### **Detainment**

At the time of your detainment, the police will have provided you with a brief explanation as to why you have been detained. The police will also have advised you of your right to contact the embassy or consulate of your home country. Should you be seeking asylum, you also have the right to contact the Danish Refugee Council. The police will furthermore have advised you that you will appear before the court at the latest 3 x 24 hours after that point in time when you were detained. Prior to your court appearance, the judge will ensure you have been appointed a lawyer.

During the court appearance, the judge will decide whether you should continue to be detained, or if you should be released.

### **Using your lawyer**

Your lawyer can help you while the police are dealing with your case. You can get help with a large number of important questions, while the case is ongoing. It is worth knowing what you can use your lawyer for:

- The lawyer's job

It is the lawyer's job to take care of your interests during your detainment, including ensuring - with your help - that you are detained for the shortest length of time possible.

- Treatment of the case by the authorities

It is the immigration authorities, which decide whether you have the right to reside or to work in Denmark. The police will conduct the necessary enquiries for your case to be judged. You have an obligation to answer the questions asked, but you can demand your lawyer's presence during the interview. The Danish Immigration Service, the Public Prosecution and the Danish Security and Intelligence Service can exchange information about you if it is relevant to your case or in the interests of national security.

- Confidential interview

Your lawyer is not allowed to disclose what you have discussed, either to the police or to anyone else. In other words, your interviews are confidential. Your lawyer can only tell someone else what you have discussed upon agreement with you. If an interpreter is present during your meetings with your lawyer, the interpreter is likewise not allowed to disclose to anyone what you have said.

### **Choice of lawyer**

You can personally choose who you wish to represent you. If you wish to change your lawyer, you can write to the lawyer you wish to have representing you. Alternatively, you can write to the court or to the police. You can ask prison staff to help you find the correct address.

### **Paying for your lawyer**

The court will appoint your lawyer for you, regardless of whether it was you or the court who asked for the lawyer. The lawyer's fee is paid by the state. Therefore you will not have to pay for legal representation.

### **Right to an interpreter**

When you appear before the court, are interviewed by the police or meeting with your lawyer, you have the right to an interpreter. It is important that you say right away if you have difficulty understanding the interpreter or feel in any way that the interpretation is causing problems. The interpreter is also paid for by the state.

### **Visits and letters**

You have the right to receive visitors, as well as to send and receive letters. In certain circumstances the police can decide that you must not receive visits from specific people or demand that your visits be supervised. These decisions can be brought before the court. The police can also look through your post before you receive or send it, and can in special circumstances withhold your post. Any police decision to withhold your post must immediately be brought before the court.

You always have the right to unsupervised contact with your lawyer.

### **Detainment - max. 4 weeks at a time**

You can be detained for a maximum of four weeks at a time. When the deadline expires, a judge will examine whether there are still reasonable grounds for your detainment. This decision is made in a short court hearing, during which you have the right to be present. However, the court hearing can also be conducted so that you and your legal representation speak to the judge and the prosecution with the aid of audio-visual telecommunication.

Your lawyer can argue and protest for your release. On the other hand, the police must provide a reason if they wish to continue to detain you.

The judge is permitted to extend the detainment to a maximum of four weeks at a time. After this time, you must appear again before a judge, who will decide whether you should continue to be detained. You cannot, therefore, count on being released after the 4-week period has ended. You do, however, have a right to be heard by a judge at the end of a 4-week period of detainment.

The detainment must not be excessively long and must not normally exceed 6 months.

If the District Court does not release you, you can always take your case to the High Court, which can also determine if you should be released. The High Court makes its decision on the basis of a written case, that is to say, without the possibility of you or your lawyer being able to speak to the judge.

### **Voluntary extension - max. 2 or 4 weeks**

When the period of detainment is about to expire, you can, together with your lawyer, decide whether you will voluntarily accept an extension of the detainment of 2 or 4 weeks at a time.

This is done by your lawyer writing to the court and consenting to a voluntary deadline extension. This means that you do not need to appear in court.

### **Appearance before an embassy or a consulate**

The police can determine whether you should meet with the embassy or consulate of your home country or any other country with a view to determining your identity or the issuing of travel documents. If you oppose a meeting with an embassy or consulate, you can demand that the police bring the question before the court, in order for them to determine whether you are required to meet.

### **Are you in doubt?**

It is not always possible for your lawyer to say exactly when he or she can visit you. It can therefore be a good idea for you to write your questions down, so you can give them to your lawyer the next time you meet.

If you are unsure or in doubt about anything else that is going on with your case, you always have the right to contact your lawyer.