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Response of the Danish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Denmark from 11 to 20 February 2008

Please find below the CPT's recommendations, comments and requests for information and the corresponding responses of the Danish Government (*in italic)*

Cooperation

comments

- the CPT trusts that the Danish authorities will make continued efforts to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention (paragraph 6)**.**

Please be assured that the Danish Government is continuously striving to ensure that no persons deprived of their liberty by Danish authorities are treated in a way that may be characterised as torture or inhuman or degrading treatment or punishment, cf. Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

In this respect the Government thoroughly examines the recommendations of inter alia the CPT for the purpose of working towards a better protection of persons deprived of their liberty against torture or inhuman or degrading treatment or punishment.

Concerning the specific reference to the CPT's recommendations about the use of restraint on psychiatric patients, please be informed that the Ministry of Health and Prevention has been and still is determined to

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continue to work with initiatives that will bring down the use of restraint in psychiatric establishments.

The Psychiatric Act was amended by the Danish parliament in June 2006, and the amendments entered into force on 1 January 2007. All alterations introduced since the previous amendments in 1998, including the changes from June 2006, have been combined in Consolidated Act no. 1111 of 1 November, 2006 on the application of restraint in psychiatry.

The aim of the amendment of the Psychiatric Act was to strengthen the legal status of patients and the protection of patients' legal rights in a number of areas relating to the application of restraint in psychiatry, and to reduce the use of restraint in some areas, including the use of prolonged immobilisation.

Some of the amendments were based on the CPT's report on the visit to Denmark in the period from 28 January to 4 February, 2002.

Police establishments

Ill-treatment

comments

- the Danish authorities must remain vigilant and continue to remind police officers that no more force than is strictly necessary should be used when effecting an arrest and transporting a detained person. In this context, the Committee trusts that the Danish authorities will continue closely to monitor cases involving the use of dogs and the application of "manual leg lock" means of restraint, to ensure that they are being applied by police officers in a necessary, justifiable and proportional manner, and with a view to further reducing the number of incidents and injuries (paragraph 11);

The Police Act of 9 June 2004 regulates the use of force by police officers and stipulates that they may use force only if necessary and justified and only by such means and to such an extent as is reasonable with regard to the interest which the police are seeking to protect.

Infringement of the provisions on the use of force in the Police Act may make the police liable to pay compensation for damages and any police officer may receive disciplinary or even penal punishment, if he or she does not observe the provisions in concern.

Complaints concerning the conduct of police officers is dealt with by the six Regional Public Prosecutors who also initiate investigation of cases where people die or are seriously injured from the intervention of the police. Reference is made to the Government's response to paragraph 12 in the CPT's report below concerning the work of the committee set up to review and evaluate the current system for handling complaints against the police.

As regards the education and training of police officers in the use of force, the fundamental principle governing said training, as well as the continuous monitoring and evaluation of cases concerning the use of force, is an assessment of necessity and justifiability. The physical force connected with various holds and techniques shall be deemed to be necessary and justified and, in addition, the forcible means applied, the duration of the holds, and, consequently, the discomfort inflicted shall be limited to the extent necessary to achieve the purpose in question. The use of force shall be justified and safe, and the police officers involved must not appear aggressive or provocative, but conduct themselves in a calm and steady manner which exhibits control of the situation.

The Danish National Police will maintain and develop the standards for the use of force.

New instructional material on the subject, which also covers the use of the so-called "manual leg-lock", was developed in 2008 by the Police College. Prior to that, in 2007 a group of independent medico-legal experts examined, assessed and approved the techniques, holds and methods comprised by the instruction.

Specifically as regards the education of police dog handlers, it will focus on a continued improvement of their awareness and skills regarding the responsibilities they have as police officers working with a police dog.

During courses and training sessions arranged by the Danish National Police the issue of the use of police dogs in situations, where the use of force is necessary, is mandatory. The main topic of these courses etc., is

that no more force than strictly necessary can be used – the use of force has to be necessary, justifiable and proportional with the task.

The police districts put a lot of effort into the support and follow-up on this education. The education of the police dog handlers also focuses on the ethics concerning the use of dogs.

According to the regulations of the Danish National Police the relevant police officers have to forward a report to the National Police Dog Centre immediately after the use of dogs. The reports are closely read with focus on how the use of force has been executed. This procedure will be maintained in order to ensure that the use of force is carried out in a responsible, justifiable and proportional manner.

- handcuffing during transportation should be resorted to only when the risk assessment in the individual case clearly warrants it and be done in a way that minimises any risk of injury to the detained person (paragraph 11).

As regards handcuffing during transportation, please be informed that the use of handcuffs is also covered by the general principles for the use of force in the Police Act described in the Government's response above.

All police officers are as part of their basic education at the Police Academy of the Danish National Police instructed in the proper use of handcuffs. The contents of courses are based on the provisions in the Police Act concerning the use of force, and it is taught that the use of handcuffs must be necessary and justified and that they may only be used to such an extent as is reasonable with regard to the interest which the police are seeking to protect.

Accordingly, handcuffs may for example be used to prevent an attack on police officers or others, to protect the arrested person from further escalation of the situation or to prevent the escape of a detainee. During transportation of a detainee where the use of handcuffs is necessary, the police officers should make sure that the detainee is seated in a way that makes the use of handcuffs as convenient as possible, and during transportation over longer distances, the police officers should consider the possibility of using an alternative solution.

<u>requests for information</u>

- detailed information on the recommendations of the studies of police interaction with youths from ethnic minorities, and the steps taken to ensure their implementation (paragraph 11);

In 2007 the so-called Learning Lab, Danish Centre for Youth Research at the Danish University of Education, issued its second report on encounters between ethnic minority youths and the police.

The first Report – "Conflict at street level – when ethnic minority youth meets the police" – was published in 2003. The second report, bearing the title "Street Boys. Ethnic minority boys in the streets and their encounters with the police and members of the public" widens the scope, inasmuch as it identifies the backgrounds to encounters and how youths and police officers perceive them.

The 2007 report was drawn up in order to ensure that police and others who work regularly with the youths could benefit from its findings, and it contains a number of recommendations that may be favourably applied in connection with these activities.

Thus, the report recommends that officers' communication with the youths becomes more informative and confidence-building and that efforts be directed towards discarding perceptions of mutual enmity. This may be effected among the youths by e.g. making an impartial third party inform them about police procedures and officers' scope of action, in particular as far as routine checks and identifications are concerned.

It is also recommended that the profile of preventive policing activities be heightened within the police service. Finally, the police are advised to develop procedures for contacts with the youths which will increasingly ensure that officers maintain the initiative in such a way that the latitude and actions of the youths do not get out of hand, thereby preventing escalation.

In December 2007 the report was distributed to the police districts, and in March 2008 the Centre for Youth Research and the Danish National Police held a conference which introduced the report and its recommendations. Furthermore, a separate project, including an e-learning module, aiming at disseminating the findings of the report, was also introduced at this occasion.

Furthermore, the Danish National Police has in its recruiting campaigns for the Police Academy aimed at receiving even more applications from people from ethnic minorities, and the National Police will continue this effort in the future.

- the conclusions of the report set up to evaluate the current system for handling complaints against the police and processing criminal cases against police officers (paragraph 12);

In December 2006 the Ministry of Justice established a committee to review and evaluate the current system for handling complaints against the police and processing criminal cases against police officers. At this point, the committee has not issued any preliminary conclusions. The committee is expected to submit its report in early 2009. The CPT will be informed on the conclusions of the report.

- in respect of 2006 and 2007:

  - the number of complaints of ill-treatment made against police officers, with a breakdown into types of ill-treatment alleged;

  - the number of criminal and disciplinary proceedings instituted as a result of these complaints;

  - an account of criminal and disciplinary sanctions imposed

  (paragraph 12).

The public prosecutors received a total of 989 cases in 2006, including complaints of conduct by police officers and reports of criminal offences committed by police officers. Some of these cases have concerned ill-treatment, but "ill-treatment" is – at the moment – not a specific statistical category of the Danish Police Complaint scheme. Danish authorities may consider, in the future, collecting specific statistical information on cases regarding allegations of ill-treatment.

Out of the 989 cases, 405 were cases about conduct and 584 were criminal cases. Out of the 584 criminal cases, 277 were cases concerned with traffic offences.

In 2006, a total of 906 cases were decided by the regional public prosecutors, 379 of which were conduct cases and 527 were criminal cases. Out of the 527 criminal cases, 246 were cases concerned with traffic offences.

The 379 complaints about conduct were decided as follows:

1. *Complaint settled in the police district as "notitssager" (cases settled in dialogue with the citizen): 129*
2. *Complaint withdrawn 12*
3. *Complaint rejected as time-barred under Section 1019A(2) of the Administration of Justice Act 5*
4. *Complaint rejected as unjustified (including as groundless, etc.) 210*
5. *No criticism, but regret expressed 7*
6. *Basis for criticism of the behaviour of the police officer 8*
7. *Other decision, including discontinued cases etc. 8*

The 527 criminal cases were decided as follows (figures in brackets are traffic cases):

1. *Report dismissed under Section 749(1) of the Administration of Justice Act 74 (4)*
2. *Investigations discontinued under Section 749(2) of the Administration of Justice Act (not charged) 258 (70)*
3. *Prosecution discontinued under Section 721(1)(1) of the Administration of Justice Act (persons charged) 4 (2)*
4. *Grounds for bringing charges (cases where charges have been brought, fines issued or where charges have been withdrawn or warnings issued) 173 (162)*
5. *Criticism or regret expressed, but no grounds for bringing charges 7 (0)*
6. *Other decisions, including cases withdrawn 11 (8)*

Please note that statistics are not kept of what happens to cases in which there are grounds for bringing charges. Therefore, comments cannot be made on the further proceedings in cases where charges have been brought.

In 2006, a total of 8 charges were brought for violation of the Criminal Code, the remainder were related to the Road Traffic Act and other spe-

cial legislation (e.g. the Police Regulations and the Executive Order on Emergency Response).

As regards the information for 2007, the public prosecutors received a total of 1,023 cases in 2007, including complaints of conduct by police officers and reports of criminal offences committed by police officers.

Out of the 1,023 cases, 457 were cases about conduct and 566 were criminal cases. Out of the 566 criminal cases, 214 were cases about traffic offences.

In 2007, a total of 1,140 cases were decided by the regional public prosecutors, 489 of which were conduct cases and 651 were criminal cases. Out of the 651 criminal cases, 263 were cases about traffic offences.

The 489 complaints about conduct were decided as follows:

1. *Complaint settled in the police district as "notitssager" (case settled in dialogue with the citizen): 147*
2. *Complaint withdrawn 18*
3. *Complaint rejected as time-barred under Section 1019A(2) of the Administration of Justice Act (retsplejeloven) 9*
4. *Complaint rejected as unjustified (including as groundless, etc.) 272*
5. *No criticism, but regret expressed 8*
6. *Basis for criticism of the behaviour of the police officer 14*
7. *Other decision, including discontinued cases etc. 21*

The 651 criminal cases were decided as follows (figures in brackets are traffic cases):

1. *Report dismissed under Section 749(1) of the Administration of Justice Act 69 (6)*
2. *Investigations discontinued under Section 749(2) of the Administration of Justice Act (not charged) 383 (99)*
3. *Prosecution discontinued under Section 721(1)(1) of the Administration of Justice Act (persons charged) 5 (2)*
4. *Grounds for bringing charges (cases where charges have been brought, fines issued or where charges have been withdrawn or warnings issued) 168 (154)*

5. *Criticism or regret expressed, but no grounds for bringing charges* *14 (2)*
6. *Other decisions, including cases withdrawn* *12 (0)*

Please note that, as mentioned above, statistics are not kept of what happens to cases in which there are grounds for bringing charges. Therefore, comments cannot be made on the further proceedings in cases where charges have been brought. In 2007, a total of 14 charges were brought for violation of the Criminal Code, the remainder were related to the Road Traffic Act.

Every year the Danish National Police prepares a summary of disciplinary cases against police officers in which the National Police, the Ministry of Justice or the Commissioners have made a decision. The summaries include cases that have been inquired/investigated by the Regional Public Prosecutors due to the rules about Police Complaint Board cases as well as disciplinary cases concerning police officers negligence, including failure to meet at work or as a witness etc.

The Danish National Police will not make a decision in disciplinary cases that are inquired/investigated by the Regional Public Prosecutors, until the Prosecutor in concern has made his decision. Therefore, the cases, in which the National Police has made a decision in 2006 and 2007, are often a result of complaints filed to the Regional Public Prosecutors in previous years.

In 2006 the Danish National Police received information about 77 new disciplinary cases. The National Police made a decision in 86 cases. Among these, 9 cases resulted in discharge, 2 cases resulted in transfer to another place of work, 2 cases resulted in transfer to another section, 27 cases resulted in a fine, 15 cases resulted in a reprimand and 13 cases resulted in a warning. 16 cases were closed without further disciplinary proceedings/sanctions.

5 of the cases can be characterized as cases concerning ill-treatment. The cases primarily concerned heavy-handed treatment in connection with the making of an arrest or the lack of supervision with persons placed in detention. 2 of these 5 cases resulted in transfer to another place of work and a fine, 1 case resulted in a fine, 1 case resulted in a reprimand and 1 case was closed without further disciplinary proceed-

ings/sanctions. In the latter case the police officers in concern had been found "not guilty" by the court.

In 2007 the Danish National Police received information about 46 new disciplinary cases. The National Police made a decision in 39 cases. Among these, 1 case resulted in discharge, 1 case resulted in transfer to another section, 9 cases resulted in a fine, 6 cases resulted in a reprimand and 16 cases resulted in a warning. 6 cases were closed without further disciplinary proceedings/sanctions.

4 of the cases can be characterized as cases concerning ill-treatment. The cases primarily concerned heavy-handed treatment in connection with the apprehension of persons and ill-treatment of a person placed in detention who was denied use of the toilet. 1 of the cases resulted in a fine and 1 case resulted in a reprimand. 2 cases were closed without further disciplinary proceedings. In the latter cases the police officers had been found "not guilty" by the court.

In addition to the above-mentioned total of 9 cases in which decisions were made by the Danish National Police in 2006 and 2007 and which can be characterized as matters of ill-treatment, there are a few cases concerning other types of ill-conduct against citizens who were not detained. These cases mainly concern impolite address of citizens or ill-conduct in private matters where the police officer unjustifiably presents himself as a police officer.

Safeguards against the ill-treatment of persons deprived of their liberty

<u>recommendations</u>

- legal provisions to be adopted to ensure that all persons detained by the police have a formally recognised right to inform a relative, or another third party of their choice, of their situation, as from the very outset of their detention. Any possibility exceptionally to delay the exercise of this right should be clearly circumscribed in law and made subject to appropriate safeguards (i.e. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor) (paragraph 16);

Pursuant to Circular no. 12154 of 12 June 2001, all persons detained by the police have the right to inform relatives or other relevant persons of the arrest. Hence, the police must without undue delay give the detainee the opportunity to inform his closest relatives or other relevant persons about the arrest, cf. Section 2(2) of said circular.

However, pursuant to Section 2(3) of the circular, the detainee can be denied this right temporarily or definitively, if, due to the specific circumstances of the case, information about the arrest in itself may compromise the investigation. The decision to deny the detainee his right to inform his relatives or other relevant persons of the arrest is made by the officer on duty or by the officer in charge of the investigation.

Furthermore, the circular stipulates that compliance with said procedures must be recorded in the detention report or protocol, cf. Section 2(6). If the detainee is not allowed to inform his relatives or other relevant persons of the arrest, the reason for this must also be stated in the report or protocol.

The circular is issued by the Ministry of Justice to the police and the Prosecution Service and is as such binding upon the individual police officer, who may receive disciplinary punishment if he does not observe the instructions in question.

- steps to be taken to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of custody (paragraph 17);

According to Circular no. 12154 of 12 June 2001, a person under arrest has the right to contact a lawyer without undue delay, cf. Section 3(1).

It is stated in the circular that the police as a principal rule shall grant a detainee access to a lawyer when bringing the detainee into the police station.

- persons detained under the Aliens Act to be guaranteed a right of access to a lawyer as from the very outset of their custody (paragraph 17);

It appears from Section 37(1), 1st sentence, of the Aliens Act that an alien deprived of liberty under Section 36 , must, if he or she has not al-

ready been released within three full days after the enforcement of deprivation of liberty, be brought before a court of justice and the court shall rule on the lawfulness of the deprivation and its continuance. If the alien is not released within the first three full days, the decision on deprivation of liberty can be appealed to the Ministry of Integration, cf. Section 48, 6th. sentence.

Furthermore, it appears from Section 37(2) of the Aliens Act that the court shall assign an attorney to act on behalf on the alien and that the date and hour when deprivation of liberty was enforced and when the alien was brought before the court must be registered in the court record.

When the decision on deprivation of liberty is served the alien is advised under which statutory authority the deprivation of liberty can be enforced. The alien is asked at the same time whether he wishes to appeal the decision to the Ministry of Integration, if the decision is not brought before a court of law. Aliens, who are not asylum-seekers, are furthermore asked whether they wish to get in touch with the representation of their country whereas the aliens, who are asylum-seekers, are asked whether they wish to get in touch with the Danish Refugee Council.

The alien is moreover advised that if he has not been released within three times 24 hours he or she will be brought before a court of law that is to rule on the lawfulness and continuance of the deprivation of liberty, and that in this connection an attorney will be assigned to represent the alien.

There is no authority in the Aliens Act to assign an attorney to act on behalf of the alien until the time when the alien is brought before the court, cf. Section 37 (2) of the Aliens Act.

However, there is nothing in the legislation on aliens to prevent an alien, who is detained pursuant to Section 36 of the Aliens Act, to retain the assistance of an attorney immediately after his detention has been enforced. It should be noted in this connection that an attorney, who is contacted by the alien himself – subject to the specific decision of the court and the alien's own request to this effect – can be assigned as attorney to act on behalf of the alien when he is brought before the court.

- police officers to be firmly reminded that they should not seek to dissuade detained persons from exercising their right of access to a lawyer (paragraph 17);

Reference is made to the Government's response to paragraphs 16 and 17 of the CPT's report above.

- steps to be taken to bring the relevant regulations and practice concerning the confidentiality of medical examinations of persons in police custody in line with the considerations outlined in paragraph 19 (paragraph 19);

If possible, a detainee is entitled to have a medical examination performed without the presence of the police if this does not compromise safety, cf. Section 4(3) of the Circular no. 12154 of 12 June 2001.

- a specific record to be kept of the fact that detained persons have been provided with information on their rights; detained persons should be asked to certify with their signature that such information has been provided and, if necessary, the absence of a signature in a given case should be explained (paragraph 20).

Pursuant to Section 1(2) of Circular no. 12154 of 12 June 2001, persons detained by the police must be informed of their rights as set out in the circular. Observance of this requirement must be recorded in the detention report or protocol, cf. Section 1(3).

In connection with the envisaged update of the circular, the Ministry of Justice will take inter alia the recommendation of the CPT concerning certification by signature of the detained person into consideration.

<u>comments</u>

- the envisaged review of the Circular of 12 June 2001 should be used as an opportunity to give a firmer legal basis to the provisions relating to the fundamental safeguards referred to in paragraph 14, by integrating them into relevant laws; this would be in the interests of both the prevention of ill-treatment and the protection of the police against false accusations (paragraph 15);

Circular no. 12154 of 12 June 2001 is legally binding for any public institution dealing with persons kept in detention, and, as mentioned in the Government's response to paragraph 16 of the CPT's report above, the circular is also binding upon the individual police officer, who may receive disciplinary punishment if he does not observe the instructions in question. Therefore, considering the binding nature of the circular, the Ministry of Justice does not find it expedient to adopt a law on the fundamental safeguards set out in the circular.

- it would be desirable for detained persons to be provided with feedback on whether it had been possible to notify a close relative or other person of the fact of their detention (paragraph 16);

The right for detained people to notify their relatives of the detention is regulated by Circular no. 12154 of 12 June 2001.

It is stated in the circular that the detainee should as a principal rule be granted access to notify his relatives himself.

If such access cannot be granted, a police officer will as a principal rule notify the relatives of the detention. Pursuant to common principles of administrative law the police are obligated to provide the detainee with feedback on whether it has been possible to notify a relative unless the withholding of said information is strictly necessary taking into consideration the specific circumstances of a case.

As mentioned above, the circular is issued by the Ministry of Justice to the police and the Prosecution Service and is as such binding on the individual police officer, who may receive disciplinary punishment if he or she does not observe the instructions in question.

- the Danish authorities are invited to reconsider introducing electronic recording of police interviews (paragraph 21).

The Director of Public Prosecutions has noted that the CPT, at its visit in Denmark in 2008, heard no allegations of ill-treatment during police questioning and that the CPT has not otherwise found evidence of such treatment. According to the report of CPT, the great majority of people met by the CPT indicated that they had been correctly treated during questioning by the police.

It is clear that electronic recordings of police interviews would provide an additional safeguard for persons being interviewed by the police. However, the introduction of such measures into Danish law will give rise to a number of considerations of principles as well as practical aspects. Moreover, police and prosecution resources must be taken into account.

It is the assessment of the Director of Public Prosecutions that there are at the moment no specific indications of a need for electronic recordings of police interviews.

requests for information

- comments of the Danish authorities on the situation described in paragraph 18 (paragraph 18).

The Danish authorities have not been able to identify the persons referred to by the CPT in paragraph 18 of the CPT's report.

Please be informed that the Aliens Act provides the possibility for detaining aliens on two very different grounds following two different regimes. The Aliens Act makes a distinction between aliens under criminal charges who are detained to ensure their presence during the case and trial until a decision on expulsion by judgment, if any, can be enforced, cf. Section 35 of the Aliens Act, and aliens who are detained to ensure the enforcement of a refusal of entry, of expulsion, transfer, retransfer and return, cf. Section 36 of the Aliens Act.

Aliens under criminal charges and aliens who have entered Denmark in violation of an entry prohibition may be remanded in custody pursuant to Section 35 of the Aliens Act.

Section 35 of the Aliens Act is a supplement to the provisions in the Administration of Justice Act concerning remand custody. Accordingly, aliens remanded in custody pursuant to Section 35 of the Aliens Act are guaranteed at least the procedural rights provided for in the Administration of Justice Act, including the right to appear before a court before 24 hours and the right to be assigned a lawyer.

An alien may be remanded in custody pursuant to Section 35 when on definite grounds custody is found to be necessary to ensure the alien's

presence during the case and during a possible appeal until a decision on expulsion by judgment, if any, can be enforced, and if the alien is not permanently resident in Denmark and there are reasons to suspect that the alien has committed an offence that may lead to expulsion under Sections 22 to 24 of the Aliens Act, or if the alien has entered Denmark in violation of an entry prohibition.

Furthermore, aliens may be detained pursuant to Section 36 of the Aliens Act in order to ensure the enforcement of a refusal of entry, of expulsion by administrative decision under Sections 25, 25 a, 25 b and 25 c of the Aliens Act, or transfer, retransfer or return.

Detention pursuant to Section 36 may only be used if the measures provided for in Section 34 of the Aliens Act are insufficient in order to ensure the enforcement of a refusal of entry, expulsion, transfer, retransfer or return of an alien.

Section 34 of the Aliens Act provides for certain measures for the police to ensure the presence of an alien until a decision is made whether or not the alien is to be expelled, refused entry, transferred, retransferred or returned from Denmark and until such a decision can be enforced. The measures include ordering the alien to deposit his passport or other travel documents or ticket with the police, providing a bail, staying at an address determined by the police or reporting to the police at specified times.

Aliens who are detained in accordance with Section 36 are submitted to specific rules in the Aliens Act including Section 37 – which is referred to in the CPT's report. Article 37 states that an alien deprived of liberty under Section 36 must within 3 full days after the enforcement of deprivation of liberty be brought before a court of justice and the court shall rule on the lawfulness of the deprivation of liberty and its continuance.

Please be informed that it is not possible to deprive an alien of his/her liberty in connection with criminal charges against the alien with reference to Section 36 of the Aliens Act, which refers to Sections 25-25 c of the Aliens Act. The provisions in Sections 25-25 c of the Aliens Act allow for aliens to be expelled under certain conditions, none of these being pending criminal charges.

Accordingly, it is not possible for the police or the Prosecution Service to remand aliens under criminal charges in custody pursuant to Section 36 of the Aliens Act in order to ensure their presence during the case and trial against them. Detention pursuant to Section 36 of the Aliens Act is reserved for detaining aliens in order to ensure the enforcement of a refusal of entry, of expulsion by administrative decision under Sections 25, 25 a, 25 b and 25 c of the Aliens Act, or transfer, retransfer or return.

Conditions of detention

comments

- some complaints were received from detained persons concerning long waiting periods before being allowed to use a toilet (e.g. at Glostrup Police station) (paragraph 23).

Requests from detainees for the use of toilet facilities shall be complied with immediately unless the specific circumstances of a given case exceptionally require that the police delay the access to such facilities. In such cases the police may only delay the access of the detainee to toilet facilities to the extent necessary.

The refusal of a request from a detainee for the use of toilet facilities with a view to harassing the detainee is naturally never allowed and could result in disciplinary or penal punishment of the police officer concerned.

Prisons

Ill-treatment

recommendations

- staff at the Western Prison and East Jutland State Prison to be reminded that they must always treat prisoners in their custody with respect (paragraph 26);

The Department of Prisons and Probation naturally agrees that inmates must be treated with respect, which also accords with the basic values of the Prison and Probation Service.

The Department has stated that it is not aware of any specific complaints from inmates about being treated disrespectfully or being spoken to in a racist manner.

However, in consideration of the CPT's recommendation to that effect, the Department has drawn the attention of the employees of the Prison and Probation Service to the necessity of treating inmates with respect. This was done in writing on the Intranet of the Prison and Probation Service, to which all employees have access.

- the Danish authorities to ensure that the use of handcuffs and transportation belts during prisoners' transportation outside and within prisons is done only when the risk assessment in the individual case clearly warrants it and in a way that minimises any risk of injury to the prisoner. Given the potential for discomfort and the risk of injury in case of accident, the practice of handcuffing prisoners behind the back during transportation should be avoided; prisoners should be transported instead in secure vans, thereby obviating the need for them to be handcuffed during the journey (paragraph 27);

The Department of Prisons and Probation notes that it appears from Section 65 of the Act on Enforcement of Sentences that handcuffs may only be used when necessary, e.g. to prevent escape or to avert imminent violence, etc. The staff of the Prison and Probation Service must thus make a specific and current assessment of the inmate and the situation, etc., which helps prevent any unnecessary use of handcuffs. If handcuffs are used, the staff must check that no skin is squeezed and that the handcuffs are not so tight as to hamper the blood circulation. Handcuffs must always be applied so that the inmates' hands are behind the back to prevent them from harming others. It further appears from the rules that the use of a transportation belt should be considered in case of long transports. But the assessment should include the fact that a transportation belt is not as secure as handcuffs.

Statistics show that the use of handcuffs in connection with transportation fell noticeably in 2008 compared with 2007. Thus, handcuffs were used 938 times at transportation in 2008, while handcuffs were used 1621 times at transportation in 2007. By contrast, the use of transportation belts rose in 2008. In 2008, transportation belts were thus used 1063

times at transportation, while transportation belts were used 596 times in 2007 (figures concerning 2008 have not yet been finally confirmed).

As a consequence of the so-called principle of normalisation, the general health service, etc., outside the prisons is also used for prison inmates in Denmark. This implies much transportation out of the institutions. The general view is that the advantages of e.g. making use of health services in the outside community, with the resulting high number of transports, exceed the disadvantages of the potential use of handcuffs during transportation.

The use of especially secure vans is generally assessed as not being viable for both practical and resource reasons. The Prison and Probation Service disposes of a few large transportation vehicles fitted with small closed rooms for inmates. As these rooms are very small, it is deemed unacceptable to use the transport vans for long distances, among other things due to the fact that many inmates have experienced carsickness during transportation in these vans. The transport vans are therefore only used for short trips in the Copenhagen area.

- appropriate steps to be taken to ensure that prisoners at the Police Headquarters Prison in Copenhagen have ready access to a proper toilet facility at any time of the day or night (paragraph 28).

The Department of Prisons and Probation agrees in the view that inmates should not wait unnecessarily long to be taken to the toilet no matter what time of the day it is. The Department keeps a continuous focus on the practices of the institutions on this point, and in an inquiry to the open prisons in March 2007 the typical waiting time was established at between two and ten minutes.

However, special security staffing may be required for certain inmates at the Police Headquarters Prison, typically negatively controlling inmates who have exhibited specific threatening or violent behaviour. If such an inmate makes a call at night, security considerations may require the presence of more than three officers. In such case the sleeping duty officer(s) will have to be woken up, and in these relatively rare cases more than a maximum of ten minutes may pass before the inmate can be taken to the toilet. The same may apply to other not so frequent situations when, e.g., two inmates make a call at the same time, or an officer is tied to a special task, such as guard duty at the security cell.

The management of the Police Headquarters Prison has pointed out to the staff that it is important to give priority to toilet calls and that inmates must not be placed in a situation where they have to relieve themselves in the cell in, e.g., a paper bag. The management is of the view that cell calls are answered within a few minutes, and that situations when up to ten minutes pass are rare.

Reference is also made to the preliminary remarks of the Department of Prisons and Probation of 13 May 2008 to the CPT on access to toilet visits.

The Department will continue to focus on this point.

comments

- the CPT trusts that the management of East Jutland State Prison will make use of all means at its disposal to ensure that constructive staff-inmate relations prevail at the establishment. This will involve *inter alia* regular presence of prison managers in the detention areas, their direct contact with prisoners, and investigating complaints made by prisoners (paragraph 25);

The Department of Prisons and Probation naturally agrees that the question of positive staff-inmate relations is important and should be accorded great weight, which is also the case in the day-to-day work in the East Jutland State Prison.

It is correct that there was some friction between management and staff and between staff fractions mutually in connection with the start-up of the prison, which was due, inter alia, to the fact that some of the large workplaces for inmates in the prison were not put into use immediately due to technical difficulties. As a result, a number of the inmates were unoccupied and therefore had to stay in their living units during working hours. The resulting problems and the problems of overcoming the technical and other difficulties led to a deal of internal disagreement and anomalies in the prison.

As the occupation of the inmates has got going and generally as daily routines have found their rhythm, these difficulties have been overcome, and management-staff, inter-staff as well as staff-inmate relations must

now be characterised as generally good in the prison management's view.

Please note in this connection that the prison has been granted funds for a large multi-year organisational development project entitled "The road to a good working day". The project comprises the entire management and staff of the prison and is intended to improve the psychological working environment for all employees of the prison. An expected derived effect of this project is a mental surplus of energy in management and staff to take care of the inmates and their situations.

Moreover, the prison now has a well-functioning spokesman scheme, and a leisure-time committee consisting of both staff and inmates has also been set up. This committee has launched a large number of activities for inmates, including activities with staff participation.

As to the matter of the presence of management in the units, please be informed that the individual unit managements are placed locally in the units, which facilitates close contact between unit managements and inmates. A scheme has been set up under which a representative from the group of unit managers and their deputy managers is present in the prison also outside the usual working hours, that is, afternoons/evenings and during weekends.

Complaints from inmates are dealt with by the unit managements, and, depending on the nature of the complaint, they either make a decision or issue an opinion to the prison management, which then makes a decision. The decisions of the unit managements and the prison management can be appealed to the prison management or the Department of Prisons and Probation, respectively.

The prison governor has weekly meetings with the unit managers held in the individual units in turn, and after each of these meetings the governor is present in the unit and is available for interviews with both staff and inmates. In addition, both the two deputy governors and the staff and security consultant very frequently visit the units.

As mentioned, the start-up of the prison caused certain problems, but it is the general view that these problems have been overcome and that mutual relations are now good.

- it would be desirable to set up a race relations monitoring committee in each prison (paragraph 26).

On the basis of the recommendations from two studies on ethnic minorities carried out by the Prison and Probation Service in 2001 and 2005, various initiatives have been taken.

Funds were appropriated in the 2006 and 2007 Finance Acts to strengthen efforts for inmates with an ethnic background other than Danish.

In that connection, a person with special knowledge about ethnic minorities was appointed in 2007 by the Department of Prisons and Probation for the purpose of supplying competencies to the institutions concerning inmates with other ethnic backgrounds. The relevant person has also helped launch various initiatives.

An informative booklet has thus been prepared for inmates sentenced to expulsion.

Efforts are being made to increase the effect of the cognitive skills programme in relation to young people of non-Danish ethnicity.

For some years, the Prison and Probation Service has been able to offer inmates and supervisees of non-Danish ethnicity adult support in the form of a mentor. This scheme has now been expanded to comprise all young inmates and supervisees.

A study book for the basic prison officer training has been prepared concerning the work with ethnic minorities.

All institutions have been offered a theme day arrangement at their institution about the work with ethnic minorities. Several theme days have already been held.

Additionally, the Prison and Probation Service has just begun collaborating with the Ministry of Integration, which has a corps of role models. The role models are young people, most of them of non-Danish ethnicity, who recount by their own example that it is possible to get out of crime and get an education or a job despite challenges and barriers. The collaboration with the Ministry of Integration has a twofold purpose: (1)

encouraging the institutions of the Prison and Probation Service to arrange meetings between groups of young people of non-Danish ethnicity and role models, and (2) assisting the Ministry of Integration in obtaining role models.

It should also be mentioned that the Training Centre of the Prison and Probation Service launched preparatory courses for immigrants. The purpose of the course is to qualify the participants for enrolment in the prison officer training. Five of these courses has been held between 2000 and 2006.

Moreover, Nyborg State Prison has launched the following initiatives:

Two special units for negatively strong prisoners of non-Danish ethnicity and with gang affiliations have been set up. A social worker with special competencies in job-related activities for the target group has been hired to take care of inmates of non-Danish ethnicity. Complementary courses are offered to inmates of non-Danish ethnicity. Employees are offered Arabic culture and language courses. Inmates sentenced to expulsion and housed in association units are offered help to prepare their return through education.

Finally, it should be mentioned that a working group has been set up with representatives from the institutions of the Prison and Probation Service and the Department of Prisons and Probation. The group is to monitor the work with ethnic minorities in the Prison and Probation Service and recommend future initiatives. Such a working group is deemed to serve the purpose better than a committee in each prison. The working group can coordinate the work across all institutions and collect and share new knowledge in this field, and central coordination is deemed to be absolutely crucial for the development of this initiative.

As to the training of staff in relation to their treatment of foreign inmates, reference is made to the Governments response to paragraph 93 below.

<u>requests for information</u>

- the outcome of the investigation by the Prisons and Probation Service into a case of confinement in a security cell at the East Jutland Prison in November 2007 (paragraph 25).

The Government presumes that the question concerns an incident involving the use of force on 22 October 2007. It appeared from the report on the incident that the inmate stated that he had been subjected to unnecessary use of force. The inmate did not make a complaint about the incident, and the staff involved rejected the inmate's allegations. However, the Department of Prisons and Probation took up the matter on its own accord and found that the staff involved had not observed Section 62(4) of the Act on Enforcement of Sentences (straffuldbyrdelsesloven) requiring force to be applied as gently as possible.

In that light, the Department requested East Jutland State Prison on 22 July 2008 to indicate to the employees involved that it was found criticisable that they had not observed Section 62(4) of the Act on Enforcement of Sentences.

Inter-prisoner violence and intimidation

comments

- while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the Danish authorities should seek to surround the segregation of disruptive/dangerous prisoners and inmates isolated for their own protection with appropriate safeguards, and should strive to minimise the deleterious effects of such segregation (paragraph 29).

The Prison and Probation Service has a natural focus on its responsibility in connection with providing a safe environment for both staff and inmates and is conscious of this responsibility. In connection with setting up the units for negatively strong inmates, it was taken into account that inmates in these units will be segregated from the other inmates during their incarceration, and therefore special outdoor exercise facilities and rooms for leisure-time activities, visits, etc., have been provided. Moreover, the number of employees in these units is higher than in ordinary association units.

The Prison and Probation Service faces a difficult challenge in terms of setting up corresponding facilities for inmates isolated for their own protection, reference is also made to the Governments response to paragraph 40 below. The reason for the difficulty is that the group comprises both inmates who want no association whatsoever with other inmates

and inmates who dare not stay in an ordinary association unit. Some inmates will therefore only carry out leisure-time activities alone, while others want to take part in activities with other inmates in the voluntary solitary confinement unit.

Activities in the units include backgammon and darts evenings, badminton, ball games, etc.

Reference is also made to the preliminary remarks of the Department of Prisons and Probation of 13 May 2008 to the CPT on voluntary solitary confinement.

In addition, Nyborg State Prison set up a new unit in the spring of 2008 with limited association. The unit has a total of 39 places: 27 places with limited association and 12 places for inmates who want no association whatsoever. The unit is full and currently has a waiting list. The inmates in the unit who want limited association have association during working hours and association in general, and conditions are largely the same as in ordinary association units except for a few restrictions.

Concerning statistics in the field, the following appears from the preliminary remarks of 13 May 2008:

"The appended statistical material shows that the number of inmates voluntarily excluded from association was 286 in 2004, 313 in 2005, 300 in 2006 and 279 in 2007. In the Copenhagen Prisons, the number was 104 in 2004, 114 in 2005, 84 in 2006 and 99 in 2007. Although there are some fluctuations, there is no increasing trend in the number of inmates who are voluntarily excluded from association."

Revised statistics are appended as the above figures do not include figures for East Jutland Prison, which was put to use in October 2006.

The figures cover a great variation in the degree of solitary confinement. They range from limited association in the form of largely "ordinary association" with fellow inmates in a unit (as described above for Nyborg) to no association with fellow inmates.

In its work, the Prison and Probation Service has targeted the problems of strong and vulnerable inmates for the last 10-15 years and has at-

tempted to adapt prison regimes on an ongoing basis to obtain the best possible match with the client composition.

The staff of the Prison and Probation Service works every day to limit the potentially harmful effects of solitary confinement. The regime in voluntary solitary confinement units is still based on the view that the inmates should have the best possible opportunities for limited association at several different times of the day.

The Department of Prisons and Probation agrees with the CPT that further work should be done with particular focus on the regime (association and activities, etc.) for inmates in voluntary solitary confinement, including an attempt to limit the number of such confinements. In that connection, the Department of Prisons and Probation will discuss with the closed prisons whether it is possible to monitor this field more systematically on a local level.

Prisoners subject to special regimes

recommendations

- "negatively strong" prisoners at East Jutland State Prison to be allowed access to the grassed areas outside their units, within the secure perimeter of Building E (paragraph 33);

Since the autumn of 2007, the negatively strong prisoners have been allowed access to the grassed areas outside their own units. At the time of the CPT's visit, such access was hardly used to any great extent due to the time of year. It should be added that a couple of football goals, etc., were purchased in the spring of 2008. The inmates have daily access to the grassed area for playing football, etc., weather permitting, and the area has been in frequent use. The prison had planned to build a petanque court in the summer of 2008, but the plans have been deferred as the inmates did not want to participate anyway.

- the decision to place a prisoner in a unit for "negatively strong" prisoners to be reviewed at regular intervals. Further, prisoners should as far as possible have access to information concerning the reasons for their placement in a unit for "negatively strong" prisoners (it being understood that there might be reasonable justification for withholding from the prisoner specific details re-

lated to security) and should have the right to appeal to an outside authority (e.g. a court) against placement or extension of placement in such a unit (paragraph 34);

As to regular review of a decision on placement in a unit for negatively strong prisoners, please be informed that the vast majority of inmates in units for negatively strong prisoners are affiliated with a biker gang or the like, and to a high degree, the decision on placement in these units is based on information from the police on the relevant person's affiliation with a biker gang or the like prior to incarceration. Accordingly, the placement is largely based on matters that normally do not change during the inmate's incarceration unless the inmate chooses, e.g., to break off his relationship with the relevant gang.

However, the Department of Prisons and Probation is presented with the cases if the prison has made an individual assessment and concluded that there is a basis for transferring an inmate who has so far been placed in a unit for negatively strong inmates, e.g. because it is considered a fact that the relevant inmate's gang affiliation has ceased.

Consequently, the Department of Prisons and Probation finds that an arrangement with regular review of a decision on placement in a unit for negatively strong prisoners will only have a limited effect compared with current procedures. Against this background, the Department considers it most expedient to maintain the existing procedure.

As to the access for inmates to information on the reasons for their placement in a unit for negatively strong inmates and review by an external authority, please be informed that pursuant to Section 9(4) of the Public Administration Act, cases concerning the placement of inmates are exempt from the general right to access to files. This provision has existed since an amendment of the act in 2002.

It appears from the travaux préparatoires of the provision that exclusion from the right to access to files may, in principle, give rise to concern. However, when considering limiting the access to files, substantial weight should be given to the need for the Prison and Probation Service to be able to maintain order and security in the prisons. It further appears from the travaux préparatoires that experience shows that, under the rules then applicable, the Prison and Probation Service did not or could not obtain the information from fellow inmates necessary to main-

tain order and quiet in the prisons. The risk of reprisals from strong inmates is so substantial that the Prison and Probation Service normally only receives incriminating information from fellow inmates if they can be guaranteed anonymity. However, this was not possible under the rules then applicable under which the right to limit the access to files depended on a specific assessment. The amendment changed the state of the law so that the access to files in cases falling within Section 9(4) of the Public Administration Act is limited.

In cases on the placement of inmates, the Prison and Probation Service receives information from the police on any biker gang affiliations or the like, that is, information that may help uncover whether the person in question belongs to the group of negatively strong inmates. It is vital in view of the protection of police investigation methods that such information is kept confidential and is not subject to the right of access to files.

The limitation in the access to files is also intended to help ensure that fellow inmates and staff providing information on negatively strong inmates can do so knowing that they are assured of anonymity.

However, under the Access to Public Administration Files Act, a so-called "principle of extended access" applies. This implies that the Prison and Probation Service has a duty to assess in each case whether, despite the limitation in the access to files, access can and should nevertheless be given to information about the basis for a decision on placement.

Inmates can bring the decision on placement in a unit for negatively strong prisoners (and the extent thereof) before the Parliamentary Ombudsman, who has dealt with such cases on several occasions.

When the Parliamentary Ombudsman investigates such a case, the Department of Prisons and Probation sends all (including confidential) documents and information in the case to the Ombudsman. The Ombudsman thus reviews the case on a complete basis.

Furthermore, inmates can also bring the placement decision of the Prison and Probation Service before the courts pursuant to Section 63 of the Constitutional Act of Denmark.

The Department for Prisons and Probation finds that the review by the Ombudsman and the judicial review pursuant to Section 63 of the Constitutional Act of Denmark provide an adequate external possibility of review.

- the Danish authorities to review the situation at the Police Headquarters Prison in Copenhagen, in the light of the remarks in paragraph 37. As regards more particularly the allocation of remand prisoners to the establishment, all placements to be reviewed on a regular, maximum three-monthly, basis. In this context, prisoners should as far as possible be kept informed of the reasons for their placement (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to the investigation and security) and should have the right to appeal to an outside authority (e.g. a court) (paragraph 37);

In cooperation with Copenhagen Prisons, the Department of Prisons and Probation will consider whether initiatives in the occupational and leisure-time activity fields could be changed and improved.

Concerning access to files and the possibility of review by an external authority, reference is made to the response of the Government to paragraph 34 above concerning placement in units for negatively strong inmates.

Concerning the question of regular review of placement in the Police Headquarters Prison, it should be noted that Copenhagen Prisons have stated that inmates in the Police Headquarters Prison are continuously and closely monitored, and that continued placement in the Police Headquarters Prison is normally reviewed once a week. In that connection it should be noted that, as opposed to placement in units for negatively strong prisoners, the predominant rule is that placement in the Police Headquarters Prison is assumed to be temporary.

- steps to be taken to refurbish the shower and toilet facilities at the Police Headquarters Prison in Copenhagen, and to verify that the quality of the food provided to prisoners is satisfactory (paragraph 37);

Please be informed that the shower and toilet facilities at the Police Headquarters Prison in Copenhagen have been renovated after the CPT's visit.

The food served to inmates in the Police Headquarters Prison is prepared by the central kitchen of Copenhagen Prisons, which cooks the food for all the prison's units. The prison observes the guidelines of the Prison and Probation Service about the size of servings, etc., and regularly discusses the food composition with inmate representatives. The selection is adjusted from time to time, inter alia according to the inmates' wishes. According to the information available, no complaints have been made about the food to the CPT by inmates of the Western Prison, which serves the same food as the Police Headquarters Prison.

- the Danish authorities to develop a national approach to address the issue of prisoners seeking isolation for their own protection (paragraph 40).

It may be added that two groups of inmates need protection. One group consists of inmates who prefer segregation from fellow inmates, most frequently because they owe money, have exhibited conduct unacceptable to other inmates, find it difficult to withstand drugs, etc. It may be difficult to place such inmates, particularly due to the building facility situation, but based on a specific assessment the Prison and Probation Service attempts to help each inmate and find individual solutions as far as possible. Such solutions could be transfer to another institution, placement in a treatment unit, etc.

The other group consists of inmates who need special protection during their incarceration due to witness statements against organised criminals or others that may constitute a threat to the inmate's person. They may also be inmates bodily threatened due to the crime committed or inmates in bad standing relative to their gang affiliation. Placement of this group of inmates is coordinated by the Department of Prisons and Probation in close cooperation with the police.

Please be informed that the Department of Prisons and Probation is in a constant process of improving measures to prevent prisoners from seeking isolation for their own protection.

<u>comments</u>

- the Danish authorities are invited to seek to develop regimes in units for "negatively strong" prisoners and, in particular, to promote some resocialisation in the way of preparation for release. Continued efforts should to be made to develop positive relations between staff and prisoners. Staff working in these units should be provided with enhanced training and encouraged to engage more with prisoners (paragraph 33);

The Department of Prisons and Probation agrees that continued efforts should be made to develop positive relations between staff and prisoners.

As for training of staff in the units for negatively strong inmates, the staff attended a course giving them an insight into the work with negatively strong inmates in connection with the establishment of the special units for negatively strong inmates. Team building was also taught. Subsequently, annual theme days have been held at which various problems relating to such units have been taken up. Finally, the staff in the units receives permanent supervision.

When the units for negatively strong inmates were established, it was taken into account that the inmates in these units would be segregated from the other inmates during their incarceration, and therefore special outdoor exercise facilities and rooms for leisure-time activities, visits, etc., have been provided. Moreover the number of employees in these units is higher than in ordinary association units.

The initiatives for preparing the release of inmates in the units for negatively strong inmates are the same as for other inmates except that they are not transferred to open prisons as part of the pre-release arrangements. This means that action plans are prepared during their incarceration, the main purpose of which is to set out goals and a framework for obtaining the best release situation. Inmates in these units have the same opportunities for leave and day-release for work and education, etc., during the final part of their sentence as other inmates.

- the Danish authorities are invited to take the considerations outlined in paragraph 38 into account in the operation of the high security unit at East Jutland State Prison. The same considerations apply *mutatis mutandis* to the Police Headquarters Prison in Copenhagen (paragraph 38).

The Department of Prisons and Probation agrees that inmates serving in a high security unit must be assured the best possible occupational and leisure-time opportunities.

East Jutland State Prison has stated that both the prison management and the unit staff pay great attention to these particular issues.

The layout of the prison and its clientele present some limitations to the possibilities for occupation and activation, as also mentioned by the CPT. However, within the existing limits, the unit management and staff aim to offer several forms of occupation and leisure-time opportunities.

Concerning occupation, the prison has stated that, when admitted, all inmates are offered occupation immediately. Several forms of work are offered, including assembly work, part-time study in the form of self-studies, abuse treatment (hashish and substitution treatment), cleaning and work in the kitchen. The prison has also stated that the situation of each inmate is reviewed once a week in the unit, and that this includes determining the possibility of occupation and activation. The prison management is represented at these meetings through the participation of the legal head of section of the prison.

Concerning leisure-time activities, the prison has stated that the unit attempts to give the inmates as much access to leisure-time facilities as possible. Activities offered are billiards, leather work, fitness room, running practice, table tennis and ball games and badminton in a gymnasium.

The prison has stated that the unit staff is very conscious about the positive value for inmates of their participation in leisure-time activities and about the good atmosphere in the unit created by participation in such activities.

Copenhagen Prisons have stated that they agree that greater focus on occupation and education might be desirable, but that the physical facilities in the Police Headquarters Prison and the resource situation of the prison do not allow for extended activities.

However, in cooperation with Copenhagen Prisons, the Department of Prisons and Probation will investigate the possibilities of improving the

occupational opportunities, including tuition, in the Police Headquarters Prison.

requests for information

- comments on the matters raised in paragraph 39 (paragraph 39).

Please be informed that inmates are placed in high security units on the basis of a specific security assessment, which means that inmates presenting a particularly high escape risk and/or dangerous inmates as well as inmates who need special protection are placed in the unit.

Once a week the unit staff reviews each inmate's situation and assesses the question of continued placement in the unit as well as other matters. The purpose is to ensure that the inmates do not stay in the unit for longer than absolutely necessary.

E.g. in cases of the choice of prison and transfer to another unit in a prison, the normal rule is that the inmate can only be informed of the legal basis of the decision. However, if no private and/or public interests make it inappropriate, a more in-depth reason for the decision may be given to the inmate.

Concerning training of the staff in the units, the Prison and Probation Service has been granted funds for launching a project concerning competence development of the employees of the Prison and Probation Service to make them better able to handle inmates requiring special resources.

The Department of Prisons and Probation presumes that the specific case referred to in the CPT's report concerns an inmate who has attempted to escape or has escaped 12 times since the year 2000, also by the use of weapons. The inmate was sentenced for offences against the person.

This inmate was placed in a high security unit from 6 July 2006 until 5 October 2006 pursuant to Section 63(4) of the Act on Enforcement of Sentences.

Since then, he has been placed in the Police Headquarters Prison and in high security units in Nyborg State Prison and East Jutland State Prison.

The inmate presents a high escape risk, but has had limited association in the high security unit.

It is not correct that the Department of Prisons and Probation has stopped the inmate's transfer to an association unit against the recommendation of the state prison. The Department has concurred in the state prison's decision on continued limited association in the high security unit.

The inmate and his counsel were informed most recently on 1 August 2008 about the reasons for his placement, and the inmate has also been informed that East Jutland State Prison, where he is currently serving his sentence, regularly considers the possibility of increasing the degree of association for him.

It should be mentioned that in June 2008 the Parliamentary Ombudsman considered the question of reasoning as concerns the inmate's placement in a high security unit, and that the Ombudsman found that the Department had given the inmate an extended reason. Reference is made to the response of the Government to paragraph 34 of the CPT's report above describing the possibilities of "extended access".

Solitary confinement of remand prisoners by court order and other restrictions

<u>recommendations</u>

- the Danish authorities to make continued efforts to ensure that remand prisoners are only placed in solitary confinement in exceptional circumstances which are strictly limited to the actual requirements of the case (paragraph 42);

The Administration of Justice Act provides very strict rules for the use of solitary confinement and states as a general principle in Section 770 that a remand prisoner is only subject to those restrictions, which are necessary to ensure the purpose of the detention on remand or the maintenance of order and security in the detention center.

The prerequisites for the use of solitary confinement are generally increased with the duration of the solitary confinement. Furthermore Sec-

tion 770 d(3) of the Administration of Justice Act requires an explicit approval from the Director of Public Prosecutions for the Courts to approve the use of solitary confinement beyond 8 weeks in relation to a person over the age of 18 and the use of solitary confinement beyond 4 weeks in relation to a person under the age of 18.

These very strict rules for the use of solitary confinement and the requirement for an explicit approval from the Director of Public Prosecutions have been governed by statute since the amendment of the Administration of Justice Act that entered into force in January 2007.

Since the law entered into force the total number of solitary confinements of remand prisoners has decreased from 475 in 2006 to 273 in 2007. Similarly, the number of persons held in solitary confinement for more than 8 weeks has decreased from 55 in 2006 to 19 in 2007. Furthermore, it should be noted that the Courts' decisions to prolong the solitary confinement beyond 8 weeks for 15 out of these 19 persons were taken in December 2006 (before the new and stricter rules entered into force) and that these 15 remand prisoners were all released from solitary confinement in January 2007. Only 4 persons were held in solitary confinement in 2007 in accordance with the new and stricter rules. The statistics for 2008 are not yet available

The Director of Public Prosecutions is closely monitoring the use of solitary confinement of remand prisoners in Denmark in order to ensure that remand prisoners are only placed in solitary confinement when it is necessary to ensure the purpose of the detention on remand. Furthermore, the Director of Public Prosecutions will continue to submit a yearly report on the use of solitary confinement to the Minister of Justice.

- the Danish authorities to pursue their efforts to provide remand prisoners placed in judicially-imposed solitary confinement with increased staff contact and access to tuition, work and other activities, in order to counteract the negative effects of being placed in solitary confinement (paragraph 42);

The Department of Prisons and Probation agrees with the general view of the CPT on this issue. Reference is made to Part 25 of the Remand Custody Order (Executive Order no. 738 of 25 June 2007) (varetægtsbekendtgørelsen) that describes the special offers to be made to remand prisoners held in solitary confinement by court order. Section 82(1) of

the Order states that, to reduce the particular stress and risk of disturbance of the mental health connected with solitary confinement, the staff must at all times pay particular attention to whether a remand prisoner held in solitary confinement needs more staff contact, medical or psychiatric attendance, extended right to visits, etc. Pursuant to Section 86 of the Order, remand prisoners held in solitary confinement by court order for more than 14 days must, at continued solitary confinement, be offered special access to individual tuition and work, including other approved activity, that may help reduce the particular stress and risk of disturbance of the mental health connected with solitary confinement.

More specifically, to mention an example, remand prisoners in solitary confinement in Copenhagen Prisons have a possibility of tuition and other activities. The tuition given is individual and targeted at the inmate's wishes and needs. The teacher attempts to find areas of interest to the individual remand prisoner. Ordinary subjects, such as Danish, arithmetic/mathematics and languages are taught alternately with more creative subjects like painting in the cell. Counselling is given on educational questions. It is possible to visit the gymnasium. The teacher also provides anti-stress exercises (e.g., stretching exercises) that can be done in the cell. In addition, interested remand prisoners may perform work in the cell. The librarian visits at least once a week and generally upon request. The chaplain/imam also visits at least once a week if requested.

- the Danish authorities to implement without further delay the CPT's recommendations on the issue of police-imposed restrictions on remand prisoners contacts with the outside world, namely:
  - that the police be given detailed instructions as regards recourse to prohibitions/restrictions concerning prisoners' correspondence and visits;
  - that there be an obligation to state the reasons in writing for any such measure;
  - that, in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters be considered as a separate issue

  (paragraph 44);

The Administration of Justice Act and the Remand Custody Order provide regulation on remand prisoners' right to receive visits and to send and receive letters.

Pursuant to Section 770 of the Administration of Justice Act, a remand prisoner is only subject to those restrictions, which are necessary to secure the purpose of detention on remand or the maintenance of order and security in the detention center.

Pursuant to Section 771 of the Administration of Justice Act, a remand prisoner can receive visits to the extend the maintenance of order and security in the detention center permits it. The police can, due to the purpose of the detention on remand, oppose that the remand prisoner receives visits, or insist that visits take place under supervision. The remand prisoner can demand that police denials of visits or requirements of supervision are submitted to the court for review.

A remand prisoner always has the right to unsupervised visits by his defense counsel.

Pursuant to Section 772 of the Administration of Justice Act, a remand prisoner has the right to receive and send letters. The police can inspect letters before they are received or sent. The police shall as soon as possible surrender or send the letter unless the content is harmful to the investigation or to the maintenance of order and security in the detention center.

If a letter is withheld by the police, the question of whether the suppression should be upheld shall immediately be submitted to the court for decision.

If the suppression is upheld the sender shall be notified immediately, unless the judge, due to considerations to the investigation, makes a different decision.

A remand prisoner always has the right to unsupervised exchanges of letters with the court, the defense counsel, the Minister of Justice, the Director of the Prison and Probation Service and with the Parliamentary Ombudsman.

In practice, the decision whether or not to impose restrictions in the right to receive visits or mail (B&B) is taken by the prosecutor at the time when the decision on remand in custody (or the prolonging thereof) is taken by the court.

The prosecutor may only make a decision to impose restrictions that are deemed necessary in accordance with Section 770 of the Administration of Justice Act.

From the point of view of the Director of Public Prosecutions the rules set out in the Administration of Justice Act and in the Remand Custody Order provide sufficient safeguards, including possibility for court review, in relation to remand prisoners' rights to receive visits and to send and receive letters.

However, the Director of Public Prosecutions has informed its expert committee on criminal procedural law – which consists of the Director of Public Prosecutions and representatives from all local prosecution districts – about the expressed criticism on the use of restrictions of the remand prisoners' right to receive letters and visits (B&B) and has requested for the use of these measures to be followed attentively.

- the practice of prohibiting remand prisoners' access to a telephone to be reviewed and made subject to the same safeguards as those referred to above in respect of correspondence and visits (paragraph 44).

The rules governing a remand prisoner's right to telephone conversation are based on the same safeguarding principles as the rules governing a remand prisoner's right to visits and to send and receive letters and other restrictions in a remanded prisoner's rights, cf. the Government's response to paragraph 44 of the CPT's report above.

The Remand Custody Order contains specific regulation concerning telephone conversation. Section 75 of the Remand Custody Order states that a remand prisoner may be allowed to have telephone conversations if connection through correspondence by letter cannot be awaited without substantial nuisance, and to the extend possible in practice. It also states that the police may oppose telephone conversations by a remand prisoner in view of the purpose of the custody. A remand prisoner's re-

quests to have telephone conversation with his counsel are generally granted.

However, similarly to the rules safeguarding a remand prisoner's right to visits and to send and receive letters, the police may only forbid telephone conversations if such a restriction is deemed necessary in accordance with Section 770 of the Administration of Justice Act.

Furthermore, similarly to the rules safeguarding a remand prisoner's right to visits and to send and receive letters, a remand prisoner can demand that the police's decision to restrict his right to telephone conversation is submitted to the court for decision pursuant to Section 773 of the Administration of Justice Act.

A remand prisoner's right to demand the police's decision submitted to the court for decision pursuant to Section 773 is not limited to decisions concerning telephone conversation but concerns all decisions made by the police in order to restrict the rights of the remand prisoner.

Conditions of detention for prisoners in general

recommendations

- a more appropriate outdoor exercise facility to be provided at Nyborg State Prison for prisoners held in disciplinary isolation or placed in judicially-imposed solitary confinement (paragraph 52);

The Department of Prisons and Probation agrees that the outdoor exercise facility for these inmates should be improved. Accordingly, the Department has set aside funds for such work, which is expected to be carried out in 2009.

- steps to be taken without further delay to improve exercise arrangements for prisoners in solitary confinement at the Western Prison (paragraph 55).

The Department of Prisons and Probation has asked Copenhagen Prisons to prepare a draft project for a new star-shaped outdoor exercise facility. The prison has commenced work on the matter.

In addition, the Department has set aside funds for this work in the capital budget.

comments

- the management of East Jutland State Prison is encouraged to make full use of the available facilities for prisoners' activities and to seek to engage more prisoners in them (paragraph 48);

As mentioned in the Government's response to paragraph 25 of the CPT's report above, there were certain problems in connection with the opening of the prison, but the general opinion is that these problems have now been overcome. Since the opening of the prison, the rate of occupation has thus risen to now 85 per cent, which is the target.

Please be informed that there has been continuous contact between the Department of Prisons and Probation and the prison management since the opening of the prison concerning the occupation, including tuition. At the latest meeting between the Department and the prison management it was agreed that a plan should be prepared for collaboration with a vocational school so that particularly tuition in vocational subjects could start at the beginning of 2009.

The inmates have various options in the leisure-time field. The prison has stated that since January 2008 meetings have been held with inmates from the association units once a month about leisure-time activities. The meetings are also attended by the prison chaplain and organist and a unit manager.

There is a wide array of offers ranging from billiards and table tennis tournaments, football tournaments both between units and with external clubs invited inside, practice matches in volleyball, also with external teams, and badminton tournaments. Many inmates also use the surfaced road around the grass areas for running practice. The fitness centres set up in each unit have trained instructors present twice a week in each unit. The centres are also open without the instructor's presence.

With regard to more hobby-like activities, the unit for negatively strong prisoners and the drug-free treatment unit have had a silver and leather workshop for some time, and since November 2008 these workshops have also been opened in the other association units.

As to cultural activities, the prison has held several concerts with external groups and solo artists, and a cafe evening is held once a month.

- at Nyborg State Prison, some prisoners indicated that there were occasionally delays in obtaining access to a toilet (paragraph 50);

Reference is made to the Government's response to paragraph 28 of the CPT's report above where it is also mentioned that an inquiry to the open institutions on their practices in this field in March 2007 showed that the typical waiting time was between two and ten minutes. However, special situations may arise in which the waiting time is longer than ten minutes

The CPT's report does not state how long the waiting time for some inmates in Nyborg State Prison was.

Nyborg State Prison has stated that the staff is very aware that inmates should not wait too long when they ask to be taken to the toilet. However, there may be situations in which the staff is working on other, more urgent tasks, for which reason a request to be taken to the toilet may not be granted immediately. In the prison's view, however, the staff replies to such calls from inmates as quickly as possible.

The Department of Prisons and Probation will continue to focus on this field.

- at Nyborg State Prison, a number of complaints were heard about the poor quality of the food provided to prisoners excluded from association (paragraph 51);

Nyborg State Prison has stated that the food served to inmates who are not self-catering comes from the central kitchen of another prison supplying deep-frozen food to the institutions of the Prison and Probation Service. The food is handled according to regulations, and the prison was recently awarded a fully satisfactory smiley (a badge of approval) from the food control authority. The production kitchens of the Prison and Probation Service are working on an ongoing basis to improve the food and ensure a satisfactory quality level. The food for inmates is organised according to the rules of Circular No. 127 of 13 November 2003 on Food for Inmates. The rules were drafted in close cooperation with

and have been approved by the Danish Veterinary and Food Administration. During the next six months, it will become possible for the institutions to buy seasonal dishes through the Intranet of the Prison and Probation Service, which will provide the individual inmate with specific options.

- the managements of Nyborg State Prison and the Western Prison are encouraged to continue making efforts to engage more prisoners in work and other purposeful activities (in particular, education and vocational training) (paragraphs 52 and 56).

Pursuant to Section 39(2) of the Act on Enforcement of Sentences, the institutions must take the inmate's own desires and his occupation, education or training opportunities outside the prison into consideration as far as possible when selecting an occupation for an inmate. The inmate must be counselled on the possibilities of remedying his or her lack of schooling, vocational training or other education through education or other training.

In recent years, the occupation of the inmates has changed from consisting especially of rather traditional subjects to including a wide range of other offers, including several treatment offers, programme activities, etc. Compared with the fact that more and more inmates are occupied part-time, an activity-based and varied pay arrangement is considered inexpedient. It has therefore been decided to appoint a project group for considering the possibility of paying out a uniform remuneration regardless of the content of the occupation.

Nyborg State Prison has stated that it is naturally attentive to the need for the inmates to have purposeful activities in their everyday lives. The prison always attempts to provide the range of activities, including educational offers, wanted and needed by the inmates. The offers are adapted to the inmates on an ongoing basis. This is also done in consideration of the optimum application of resources so that the offers available cover the need of a certain number of inmates.

The Department of Prisons and Probation has just had a meeting with the prison management, which has contributed to the prison having concluded a contract with a technical college with a view to starting tuition in vocational subjects. The prison has also concluded an agreement with another technical college about launching a vocational training pro-

gramme with introductory courses in the study programmes of electricians and blacksmiths.

Copenhagen Prisons have stated that they agree that occupation should be a point of focus on an ongoing basis. The prison is therefore working continuously on the development of various activation initiatives: treatment, school, various work offers, etc.

Particularly concerning tuition, Copenhagen Prisons have stated that many inmates attend reading and arithmetic/mathematics classes. Offers also include remedial tuition in Danish, religion, social sciences and sports. Moreover, various creative activities are also offered, such as pottery, art, sewing and leather and silver work.

The Department of Prisons and Probation would add that it has been agreed to have a meeting with the prison management about occupation, and that it is being considered whether some kind of vocational tuition can be introduced.

<u>requests for information</u>

- why three persons aged between 15 and 18 were being held at the Western Prison and not at a secure department for minors and juveniles (paragraph 53).

The Government has no knowledge of the specific cases in which the CPT was informed that three persons between the age of 15 and 18 years were held at the Western Prison and not at a secure institution for minors and juveniles.

Please be informed that the provisions on detention on remand in Chapter 70 of the Administration of Justice Act also apply to minors (under the age of 18). However, where the purpose of detention can be attained by less interfering measures, it will always be attempted to place the minor in a surrogate to detention on remand if the minor agrees to this and unless specific reasons deem regular detention on remand necessary.

Section 768a(2) of the Administration of Justice Act contains special time limits as to the use of detention on remand of minors.

In Instruction No. 4/2007 on treatment of cases regarding juvenile offenders (issued by the Director of Public Prosecutions) guidelines are established as to how the Prosection Service shall handle cases where detention on remand of minors is considered. According to these guidelines, it should always be attempted to place the minor in a surrogate to detention unless specific reasons deem that detention is necessary.

Thus, where the minor agrees to being placed in a secured institution for minors, the Prosecutions Service will as a main rule request the court to order such a placement.

For specific reasons, e.g. if the crime committed is of a very serious or dangerous nature, in may be found that regular detention is necessary.

In cases where there is no available space in an institution for minors or juveniles, regular detention on remand may be ordered by the court on the condition that the minor is transferred to the institution a soon as position is available.

The Danish courts – including the Supreme Court in a decision of 3 July 2008 – has in several cases accepted that minors are placed in detention in regular facilities until they can be transferred to surrogate facilities (institutions for minors or juveniles).

According to Section 768a of the Administration of Justice Act, the time limits placing minors in detention on remand are as follows:

Unless the court finds that extraordinary circumstances apply, the continuous period of detention of minors must not exceed
1) Four months when the charge relates to an offence with a maximum penalty of less than 6 years
2) Eight months when the charge relates to an offence with a maximum penalty of 6 or more years.

The rules regulating the placement of minors in detention on remand are more closely described in Instruction No. 6/2008 (issued by the Director of Public Prosecutions).

Health care services

<u>recommendations</u>

- the Danish authorities to take steps to ensure that all inmates, regardless of the length of their estimated length of stay, are systematically medically screened upon their arrival in a prison (paragraph 58).

In the preliminary remarks of 13 May 2008 to the CPT on medical screening, the Department of Prisons and Probation has described the rules of the Executive Order on Health care for Inmates.

So far, the Department has been of the opinion that the existing rules, under which an inmate must be given a general briefing on the health-care arrangements of the institution as soon as possible following admission and must orally be offered a consultation with the doctor or nurse of the institution, are sufficient.

However, the health of the clientele of the prisons generally seems to be considerably poorer than previously. There is also an increasing number of foreign inmates who are assessed to have a generally poorer health than Danish inmates.

In view of this development, the Department has just been granted funds for a pilot project on screening for somatic illnesses for the purpose of assessing, on the basis of the experiences from the project, whether the existing health care arrangements of the state and local prisons need to be changed – and, in the affirmative, how. It has not yet been decided what institutions will be included in the project on screening for somatic illnesses. The project is expected to be launched in 2009.

Moreover, the Department has been granted funds for a four-year pilot project (2008-2011) on screening for mental illness upon custody on remand. The purpose of the project is to identify persons with mental illnesses earlier than normal so that they can sooner be offered treatment or possibly be transferred to a psychiatric ward. The project is launched to test a screening model in order to better be able to assess whether such screening should be introduced nationally. The project will be launched in the local prisons of Aarhus and Odense and in Copenhagen Prisons and is expected to be launched in 2009.

comments

- the initial medical screening of all persons admitted to a prison should be obligatory, not an option offered to them (see also Rule 42.1 of the European Prison Rules) (paragraph 58);

Reference is made to the Government's response to paragraph 58 of the CPT's report above.

- the Danish authorities are encouraged to pursue their efforts in the field of drug prevention in prisons, by ensuring that appropriate health care services and life skills rehabilitation for inmates with drug problems are available in all prison establishments (paragraph 62).

In January 2007, the Prison and Probation Service introduced a treatment guarantee ensuring that drug abuse treatment can be offered to inmates at the latest 14 days after an inmate has expressed a wish for treatment. Inmates are entitled to drug abuse treatment unless they are expected to be released within three months or are deemed not to be motivated.

The main principle is still that clients of the Prison and Probation Service are to use the treatment facilities of the outside community to the greatest possible extent (the so-called principle of normalisation). This implies that prison inmates will typically be offered alternative sentence enforcement by placement outside a state or local prison according to Section 78 of the Act on Enforcement of Sentences.

The Prison and Probation Service wants to ensure that the group of inmates who cannot make use of the community offers for various reasons are offered treatment inside the prisons similar to the treatment offered by the community outside. Accordingly, as a reflection of the treatment offered in the community at large, the Prison and Probation Service has selected a number of treatment institutions representing various addiction treatment methods to provide treatment in the prisons (the import model).

Almost 10 per cent of the capacity of Danish prisons is allocated to special addiction treatment units. In addition, treatment is also offered to the inmates in the remaining part of the prison.

More than 50 forms of treatment are now offered in state and local prisons, including offers of alcohol abuse treatment. The state prisons provide for primary treatment for alcohol and drug abuse as well as substitution treatment, which may be combined with supportive consultations with, e.g., social workers or therapists. All state prisons offer treatment for hashish addiction, and local prisons in the entire country offer motivational and hashish addiction treatment based on the import model.

The Department of Prisons and Probation monitors on a continuous basis whether the treatment offers need to be changed and likewise assesses whether other types of treatment should be offered. The Department thus keeps up-to-date about relevant research and monitors the development in the treatment offered outside the institutions of the Prison and Probation Service.

Continuing efforts are made to assure the quality of and improve the offers. This is done through accreditation and in other ways.

The Department has just been granted funds to upgrade its treatment efforts towards addicts. The funds will be applied to improve the allocation to treatment units in the prisons and to strengthen one of the existing units.

<u>requests for information</u>

- developments concerning a pilot project on the screening of prisoners for somatic illnesses (paragraph 59);

Reference is made to the Government's response to paragraph 58 of the report of the CPT above.

- comments of the Danish authorities on the existing problems of transfer of prisoners in need of psychiatric treatment to specialised establishments (paragraph 61);

Waiting time for the transfer of inmates to psychiatric hospital wards is a problem, particularly in Greater Copenhagen. The Prison and Probation Service and the Capital Region have met regularly since the autumn of 2005. The meetings are held approximately every six months for the purpose of sharing information and discussing issues about the transfer of

inmates from the institutions of the Prison and Probation Service (in the Greater Copenhagen area) to the psychiatric wards.

These meetings are important and contribute to a mutual understanding of each other's problems and situation. The Capital Region focuses on those waiting in the institutions of the Prison and Probation Service, but unfortunately there is a shortage of places in the Greater Copenhagen area, including an adequate number of secure places.

Since the March 2007 meeting, there has been a development in the number of people registered as waiting for transfer to a psychiatric ward and in the actual waiting time. The waiting time is slightly increasing, while the number of inmates waiting for transfer to the psychiatric system is declining.

The area is also subject to close political attention. In a consultation, both the Minister of Justice and the Minister for Health recently stated to the Legal Affairs Committee of the Danish Parliament that mentally ill persons should not be incarcerated in prisons, but should have a possibility for transfer to psychiatric wards. In connection with the consultation, the Minister for Health decided to launch an inquiry into the waiting times for the psychiatric wards.

- the outcome of the pilot project for the early identification of mental illnesses amongst remand prisoners (paragraph 61).

Reference is made to the Government's reply to paragraph 58 of the CPT's report above.

Other issues of relevance to the CPT's mandate

<u>recommendations</u>

- the Danish authorities to take the necessary steps to ensure that all the principles and minimum safeguards set out in paragraph 71 are applied in prisons when resort is had to immobilisation (paragraph 71).

<u>Re appropriate use</u>
The use of forced immobilisation is subject to a statutory principle of proportionality and considerateness. Accordingly, it appears from Sec-

tion 66(1) of the Act on Enforcement of Sentences that forced immobilisation may only be applied in connection with confinement in a security cell if necessary to avert imminent violence or to overcome violent resistance or to prevent suicide or other self-mutilation. It further appears from Section 66(2) of the Act on Enforcement of Sentences that no forced immobilisation may be effected if such measure would be disproportionate in view of the purpose of the measure and the indignity and the unpleasantness presumably caused by the measure. Finally, it appears from Section 66(3) of the Act on Enforcement of Sentences that forced immobilisation must be effected as considerately as circumstances permit.

Re attendance by a doctor

In case of forced immobilisation of an inmate in a security cell, the institution shall promptly request a doctor to attend the inmate, and the doctor shall attend the inmate unless the doctor deems such attendance obviously unnecessary, cf. Section 66(5) of the Act on Enforcement of Sentences.

Re equipment

In the assessment of the Department of Prisons and Probation, the equipment meets the requirements described by the CPT. The staff is also trained in the use of the equipment.

Re duration of fixation

It appears from Section 8 of Executive Order No. 384 of 17 May 2001 on the use of means of restraint in state and local prisons that immobilisation may only exceptionally be applied for more than 24 hours. Immobilisation extending over more than 24 hours must be reported to the Department of Prisons and Probation, which then reviews the case. If means of restraint are used for more than 24 hours, a doctor must be briefed daily to allow him to assess, on the basis of his knowledge of the inmate, etc., whether medical attendance is necessary. The Department of Prisons and Probation follows up on cases of this nature by checking after 48 and 72 hours whether the immobilisation has been maintained. This is very rarely the case.

Re information

Section 13 of Executive Order No. 384 of 17 May 2001 on the use of means of restraint in state and local prisons provides that a report must be made as soon as possible on the use of security cells and forced immobilisation. The report must state the reason for the use of the means of

restraint, the date and time of termination of the use thereof and that the inmate has been briefed on the possibility of appealing to the Minister of Justice (in practice the Department of Prisons and Probation) and on expiry of the time-limit for such appeal. Moreover, the report must provide information on the time when a doctor was summoned to attend an immobilised inmate. Upon request, the inmate must be given a copy of the report, see in this respect Section 13(2) of the Executive Order.

Re formal written guidelines

The institutions that have a security cell at their disposal have prepared local written guidelines for the staff.

Re continuous and direct monitoring

Section 66(4) of the Act on Enforcement of Sentences provides that an inmate under forced immobilisation must have a constant guard. Guidelines No. 2 of 2 January 2006 lay down detailed directions about this. It thus appears from paragraph 4 of the Guidelines that a constant guard must be a prison officer or other qualified staff appointed for the purpose who has no other tasks at the same time than taking care of the immobilised inmate. The Guidelines furthermore state that it should be ensured as far as possible that the constant guard is an experienced employee in permanent employment and that the guard has not participated in the immobilisation in question. Moreover, the institution should consider whether it is expedient that the constant guard is a person with good knowledge of the immobilised inmate, as experience shows that this is often, but not always, the case.

Normally the constant guard stays outside the security cell in a place where he or she can observe the inmate without being visible. In the experience of the Prison and Probation Service, this is the best solution as this will often make the inmate calm down. If the constant guard deems that it would be more expedient for him or her to stay in the security cell in the specific situation, this is naturally possible. It should be noted that the inmate can always call the guard.

Pursuant to the rules of Section 14 of the Executive Order, notes on the immobilised inmate must be made in a special observation form. Notes must be made as needed, but at least every fifteen minutes.

Re the opportunity to discuss the experience

Following discussion with the institutions, the Department of Prisons and Probation will consider this recommendation in detail.

comments

- when a prison is constructed a distance away from all means of public transport, the Prisons and Probation Service should take responsibility for providing affordable transport to the prison on a regular basis (paragraph 63);

East Jutland State Prison is located about 10 kilometres northwest of Horsens. During the daytime, the public bus service can be used. The prison is located about 1.5 kilometres from the nearest bus stop.

The prison has commenced negotiations with the Central Denmark Region and the public transport company Midttrafik, which are responsible for local bus services. Midttrafik will examine the possibility of having a bus route stop closer to the prison. The public transport company and the prison have agreed to conduct a detailed study to uncover the need, whereupon discussions will be resumed.

When planning future prison facilities, the Prison and Probation Service will also aim to take into account the need for collective transport services.

- the CPT has reservations about the use of prisoners as interpreters for other prisoners during disciplinary hearings. If, exceptionally, recourse is had to such an approach, the consent of the prisoner facing disciplinary charges should be carefully documented (paragraph 66);

The Department of Prisons and Probation agrees that a written record should be prepared about the inmate's consent to using a fellow inmate as an interpreter during disciplinary hearings and the Department will instruct the institutions of the Prison and Probation Service accordingly.

- the Danish authorities are encouraged to continue monitoring the imposition of disciplinary sanctions in order to ensure that they are always proportionate to the offence (paragraph 67);

Please be informed that the Prison and Probation Service intend to continue monitoring the development in the imposition of disciplinary sanctions in its institutions.

- the Danish authorities are encouraged to pursue their policy of systematic registering and speedy handling of complaints. A structured approach to complaints can be a useful tool in identifying issues to be addressed at a general level. In this context, the management of each prison should be provided with regular (e.g. quarterly) reports on the complaints registered (paragraph 72).

The Department of Prisons and Probation already considers general problems when a reason to do so is established. Most recently, the Department thus considered the institutions' practice for supervised visits and the access to telephoning and instructed the institutions in the practice to be followed in these areas.

In addition, the Department of Prisons and Probation is considering whether there is a basis for systematically monitoring complaints, both by number, type of complaint and institution. However, there are certain problems with the data quality in this context.

Reference is also made to the Department's preliminary remarks of 13 May 2008 to the CPT on a complaints registration system.

<u>requests for information</u>

- comments on the issues concerning visits raised in paragraph 64 (paragraph 64);

According to Section 771 of the Administration of Justice Act a detainee can receive visits to the extent the maintenance of order and security in the detention centre permits it. The police can, due to the purpose of the detention on remand, oppose that the detainee receives visits, or insist that visits take place under supervision. If the police deny visits, the detainee shall be informed hereof. The detainee can demand that police denials of visits or requirements of supervision are submitted to the court for review. The detainee always has the right to unsupervised visits by his defence council.

The Ministry of Justice has issued Executive Order no. 738 of 25 June 2007 according to which detainees in solitary confinement ought to be granted no less than one weekly visit of at least 1 hour's duration.

These provisions are – of course – also observed concerning detainees in Western Prison and are only deviated from when it is strictly necessary for example due to matters of personnel. In such cases it is aimed that detainees of Western Prison will be given no less than one visit every two weeks.

- the outcome of the tests carried out on the ventilation system in the disciplinary cells at East Jutland State Prison (paragraph 68).

On the basis of the complaints made, an impartial firm of consultants has inspected selected cells in the disciplinary and solitary confinement unit.

It was established that the potential of the mechanical ventilation system was not adequately used, and it has subsequently been agreed with the prison that the ventilation system will be adjusted so that the quantity of incoming air is increased.

In addition, the prison will examine the possibility of establishing a form of sun screen on the exterior of the building, thereby reducing the heat in the cells. As a first attempt, an experiment with heat-reflecting film on the outside of the window panes will be launched.

The Herstedvester Institution

comments

- more attention should be paid to ensuring that the safeguards surrounding the medical libido-suppressing treatment of sex offenders are being fully respected in practice. In particular, special care should be taken to make sure that prisoners' consent to medical libido-suppressing treatment is genuinely free and informed. In this connection, the provision of full information (oral and written) on the known adverse effects – as well as the possible benefits – of the treatment, should be improved. Further, no prisoner should be put under undue pressure to accept medical libido-suppressing treatment (paragraph 78);

Please be informed that quite considerable emphasis is placed on the informed consent. The Herstedvester Institution has reviewed the procedure for medical libido-suppressing treatment, including the information given to the inmate, in order to assess whether the procedure can be tightened up further. According to this review, the procedure observed is very thorough, and there is no immediate basis for further tightening up.

Please note that a statement concerning sexual offenders undergoing libido-suppressing treatment was sent to the European Human Rights Commissioner in 2004. The statement did not give rise to further comments from the Commissioner. In December 2006, the European Human Rights Commissioner paid Denmark a follow-up visit. The memorandum from the visit stated as follows: "As regards informed consent by the prisoner and the possibility to stop the treatment, it was underlined by the delegation's interlocutors that the various safeguards called for by the Commissioner in 2004 are being scrupulously granted. The Commissioner welcomes the information he received from his delegation on the good conditions at the Herstedvester prison and on the encouraging results of antihormone therapy when practiced with numerous, strict safeguards."

Reference is also made to the Department's preliminary remarks of 13 May 2008 to the CPT on treatment of sexual offenders. From this it appears that the conditions for offering libido-suppressing treatment to inmates are very strict.

Consequently, the Department does not find that inmates are put under undue pressure to accept libido-suppressing treatment.

- in addition to drug treatment, efforts should be made to step up psychotherapy and counselling with a view to reducing the risk of re-offending (paragraph 78);

The main basis for the treatment efforts towards sexual offenders is psychiatric/sexological intervention. The psychiatric/sexological treatment is planned individually and consists of individual therapy and/or group therapy. The treatment mainly focuses on preventing re-offending, but another aim is to support personal resources. Offers also include cognitive behavioural therapy and abuse treatment.

Reference is also made to the Government's response to paragraph 78 of the CPT's report above.

- the present system of detention for prisoners from Greenland has a number of undesirable effects which could be avoided if such prisoners were able to serve their sentences in Greenland (paragraph 79);

Upon recommendation from "The Commission on Greenland's Judicial System" the Danish Parliament adopted the "Penal Code for Greenland" on 8 April 2008. The Penal Code enters into force on 1 January 2010.

The new Penal Code presupposes the establishment of closed prison places, viz., a closed safe custody unit for those sentenced to safe custody who have been placed in the Herstedvester Institution so far, and a closed disciplinary unit. According to the travaux préparatoires of the Code, the closed places are to be located in Nuuk.

In December 2007, the Department of Prisons and Probation set up a project group to provide the necessary basis for the decision to expand the capacity and to examine and describe the relevant functional and quality specifications.

In order to determine the expense of constructing this institution, the Department of Prisons and Probation, together with the Ministry of Finance and the Ministry of Justice, has requested an impartial firm of consultants to estimate the costs.

On the basis of the conclusions from the consultants, the level of expense is expected to be determined in early 2009 so that the planning of the construction can start in 2009.

The new places are expected to be ready in 2012-2013.

Reference is also made to the Department's preliminary remarks of 13 May 2008 to the CPT on prisoners from Greenland.

- the project for the construction of a new institution in Greenland should be given high priority (paragraph 80).

Reference is made to the Government's reply to paragraph 79 of the CPT's report above.

requests for information

- progress made on the construction of a new institution in Greenland (paragraph 80).

Reference is made to the Government's reply to paragraph 79 of the CPT's report above.

Establishments for foreign nationals detained under aliens' legislation

Ill-treatment

recommendations

- custodial staff at the Ellebæk Institution to be reminded that they must always treat detainees in their custody with respect (paragraph 82).

The management of the Ellebæk Institution has stated that it is not aware of specific cases of inappropriate language used towards detainees, but that it is aware of the problem. Should the management become aware of inappropriate language used towards detainees, it will promptly take action against the employee in question. In the relevant case, the management will conduct a corrective interview with the employee or institute disciplinary proceedings, if necessary, the ultimate consequence being dismissal.

A code of ethics for relations with the detainees has been adopted at the Ellebæk Institution from which the following appears:

"We shall:

- *respect the individual human being and observe the generally recognised human rights;*
- *act in accordance with current rules and not impose restrictions on the detainees other than those following from legislation;*
- *employ a proper tone when talking to the detainees and be aware that statements may be understood quite differently from what*

was intended in particular situations due to differences of language and culture; and

- *be accommodating in relation to the detainees."*

As stated in connection with the Government's response to paragraph 26 of the CPT's report above, the Department of Prisons and Probation has chosen, in view of the CPT's recommendation, to remind all employees of the Prison and Probation Service of the need for employees to speak to and treat detainees and inmates with respect.

Reference is also made to the Department's preliminary remarks of 13 may 2008 to the CPT on complaints of the racist, ignoring attitude to detainees exhibited by certain members of staff.

Conditions of detention

<u>recommendations</u>

- efforts to be made to clean and refurbish the detention units of the Ellebæk Institution, to improve the bedding arrangements and to make the environment more appealing (paragraph 85).

Please be informed that the Ellebæk Institution has increased its focus on attaining a high standard of cleaning after the CPT's visit, including by more frequent inspections.

It is a great challenge to the Ellebæk Institution to keep up a satisfactory standard of maintenance as things fall into disrepair very quickly. The reasons are that the inmates' situation is characterised by uncertainty about their future, that many fear being forcibly returned, and that many react by wanton destruction of property when they have been notified by the police about their return.

According to the Ellebæk Institution, painting works are being carried out continuously nevertheless. At the CPT's visit, the work had reached Building 16, which was in the poorest state. The building consists of two accommodation units, which have both been painted since the visit.

After the CPT's visit, the Ellebæk Institution has inspected all mattresses and bought new ones for all rooms. The mattresses, which are fire-retardant, have been developed together with the Danish Technological

Institute and are of the same type as those used in the other prisons in Denmark. The Department of Prisons and Probation has introduced guidelines for the purchase, replacement and use of the foam mattresses to prevent them from becoming unyielding from use. Moreover, inmates and detainees suffering from back disorders can apply for a pressure-relieving top mattress made of the same fire-retardant material as the standard mattress.

The Ellebæk Institution has stated that bed linen is purchased continuously for replacement purposes, but that shrinkage is heavy and that much bed linen is destroyed. After the CPT's visit, the Ellebæk Institution inspected the bed linen and bought 50 new sets.

According to the Ellebæk Institution, Venetian blinds will be fitted in all rooms.

Reference is also made to the Department's preliminary remarks of 13 May 2008 to the CPT on detained asylum-seekers at Ellebæk.

<u>comments</u>

- the Danish authorities are invited to consider enabling persons detained at the Ellebæk Institution to prepare their own food (paragraph 86);

The Department of Prisons and Probation notes that the question of introducing self-catering in the Ellebæk Institution is being considered. However, it is connected with various major difficulties as the institution has relatively few places with fluctuating occupancy, and it is already difficult to get private grocers to operate shops even in the big prisons. Moreover, the client mix makes it a great challenge to compose an adequate assortment, and communication problems in connection with the purchase of goods are also anticipated.

It will be extremely costly to establish and operate a shop under the Prison and Probation Service at the Ellebæk Institution. Moreover, the introduction of self-catering will require space in the form of new kitchens, dining rooms and a grocery store.

The deep-frozen food for the inmates of Ellebæk is prepared with special regard for religion, etc. The production kitchen is willing to consider the

inmates' wishes concerning the food and to let demand guide the provision of food to a greater extent. Furthermore, special allowances for the nature of the institution have been made as mentioned in the report of CPT, a salad dish being served in addition to the deep-frozen food, and the kitchen also bakes bread and makes extra rice.

Focus on food for the inmates has generally increased in 2008. In 2009, it will thus become possible for the institutions to buy seasonal dishes through the Intranet of the Prison and Probation Service, which will provide the individual inmate with specific options.

- the Danish authorities are encouraged to enlarge the offer of purposeful activities to persons held at the Ellebæk Institution (e.g. provision of books and recent newspapers in various foreign languages, games, etc.). The longer the period for which persons are detained, the more developed should be the activities which are offered to them, including the possibility to acquire skills that may prepare them for reintegration in their countries of origin upon return (paragraph 88).

The Ellebæk Institution has stated that the institution's full-time pedagogue left by the end of December 2007, and that the gym instructor was absent for a period due to a sports injury at the time of the CPT's visit. Therefore, the CPT probably did not get an adequate impression of the leisure-time facilities of the institution when the Committee members spoke with the detainees.

The institution has decided to hire several part-time teachers instead of one full-time pedagogue. Such teachers will be able to work some hours a week without 'burning out' as the work can be combined with their other activities outside the institution.

Together with the Ellebæk Institution and in the light of the CPT's recommendations, the Department of Prisons and Probation will consider whether to launch further initiatives in the occupational and leisure-time fields. However, the institution does not consider it realistic that such initiatives can be used to prepare the detainees for reintegration in their countries of origin following return. It should be noted in that connection that many detainees do not want to be returned and that it will therefore be difficult to motivate them to participate in a programme aiming at reintegration in their countries of origin.

Reference is also made to the Department's preliminary remarks of 13 May 2008 to the CPT on detained asylum-seekers: Regime – improved psycho-social efforts and more activities for the detainees.

Health care

recommendations

- the Danish authorities to take urgent steps to introduce systematic medical screening of all persons admitted to the Ellebæk Institution as soon as possible after their admission (paragraph 90);

Please be informed that newly admitted detainees at Ellebæk are summoned for an interview with one of the nurses as soon as possible after their admission. On the basis of this interview, the detainee is referred to the doctor if needed or if desired by the detainee. If a new detainee refuses to speak with a nurse – typically due to moodiness – the detainee is approached again after a short while to see whether he or she can be motivated for an interview.

Accordingly, the Department of Prisons and Probation is of the opinion that the CPT's recommendation is fully met by the Ellebæk Institution.

Reference is also made to the Government's reply to paragraph 58 of the CPT's report above.

- measures to be taken to ensure regular attendance by a psychiatrist and a psychologist at the Ellebæk Institution and to step up psycho-social interventions (paragraph 91).

Reference is made to the preliminary remarks of the Department of Prisons and Probation of 13 May 2008 to the CPT on detained asylum-seekers: Regime – improved psycho-social efforts and more activities for the detainees.

The Department will reconsider the current arrangement with transportation to Copenhagen Prisons if psychiatric/psychological attendance/assistance is required in order to examine whether changes are needed.

Other issues

recommendations

- all custodial staff at the Ellebæk Institution to be required to wear some form of identification in a visible place on their uniform (paragraph 94);

Please be informed that it is a general requirement that the staff at all institutions of the Prison and Probation Service must be able to present their ID card upon request. It should be added that members of staff have a duty to give their name or staff number upon request from a detainee. Based on that information or information about the time, it will therefore always be possible to identify the employee. The ID card must therefore always be worn on duty.

It appears from the guidelines for use of the ID card that the local management of the individual institution decides whether the ID card is to be worn visibly or not. The management of the Ellebæk Institution has decided that the ID card is not to be worn visibly. In the light of the CPT's recommendation, the institution will consider whether to change this decision.

- steps to be taken to ensure that the information leaflet about the administrative detention of foreigners and the regime applicable is systematically provided to all detained persons upon their arrival at the Ellebæk Institution (paragraph 95).

Please be informed that the staff of the Ellebæk Institution has been instructed to ensure that all detainees receive the information leaflet when admitted. The institution is drafting a staff manual for use at admission and in that connection the importance of providing written information will be emphasized.

comments

- the CPT trusts that the Danish authorities will be able to provide the services of an imam at the Ellebæk Institution in the near future (paragraph 92);

At the moment, the Department of Prisons and Probation is implementing a report from 2006 on the ecclesiastical service offered to inmates affiliated with religious communities other than the Evangelical-Lutheran Church in Denmark. More detailed guidelines are to be prepared on the employment/attachment of ecclesiastical representatives, including the number of working hours at each institution, employment procedure, job advertisements, job descriptions and dismissal procedure. In addition, guidelines on more practical issues related to the inmates' practice of religion are to be prepared.

In connection with a multi-year agreement for 2008-2011, the Prison and Probation Service has been granted funds for combating radicalisation and extremism. A project group has been appointed for preparing a recommendation on the establishment and implementation of a special approval procedure in connection with the employment/attachment of ecclesiastical representatives and continuous control of ecclesiastical acts, possibly in the form of tape recording and translation in relevant cases.

Permanent employment of imams awaits the implementation of the ecclesiastical report of 2006 and the multi-year project on the combating of radicalisation and extremism. Guidelines for the employment/attachment of ecclesiastical representatives are expected to be available soon so that imam positions can be advertised during 2009.

Until imams can be employed/attached, the institutions have to summon imams on an ad hoc basis when inmates request such assistance. This also applies to the Ellebæk Institution.

- the Prison and Probation Service are urged to continue focusing on the special training needs of custodial staff dealing with immigration detainees (paragraph 93);

The staff of the Prison and Probation Service is taught and trained to treat all inmates with respect, regardless of nationality. The Prison and Probation Service is responsible for the training of the prison officers and therefore designs the training programme so that the students acquire the necessary competencies. The training programme is regularly updated and developed in line with the problems faced by the Prison and Probation Service. As good communication is essential, the training today is generally based on subjects that are related to communication.

Such subjects include social service theory, teaching methodology, conflict resolution, psychology and interview techniques.

The basic training includes classes about detainees and inmates of non-Danish ethnicity. Further education courses on the subject are also offered. The Prison and Probation Service is carrying out a reform of its basic prison officer training. The new training programme is expected to be launched in 2010. The actual training programme is to include the development of social competencies, including the development of initiative, independence, responsibility and empathy enabling the student to meet other people in an ethical and respectful manner and to see himself or herself and his or her own role in the development of human relations.

In connection with the multi-year agreement for the Prison and Probation Service, funds have been granted for competence development of the staff to make them better able to handle inmates requiring special resources. The project will cover three areas: the mentally ill, addicts and young inmates of non-Danish ethnicity, and is expected to be concluded at the end of 2009.

The Prison and Probation Service is involved in a Danish-Moroccan collaboration project, one element of which consists of assistance/good advice given by the Moroccan prison service to the Danish prison service concerning the handling of inmates with an Arab/Muslim background.

Reference is made to the preliminary remarks of the Department of Prisons and Probation of 13 May 2008 to the CPT on complaints of the racist, ignoring attitude to detainees exhibited by certain members of staff. In the remarks it is described how the Ellebæk Institution has prepared guidelines and visions on work ethics for the institution at a seminar for all members of staff.

The Prison and Probation Service is thus generally very aware of the need for continued training of staff occupied with foreign inmates or detainees.

- in case of use, adequate heating should be provided in the disciplinary cells at the Ellebæk Institution (paragraph 97).

Please be informed that the relevant cells are always heated when in use, and that they were being aired on the day of the CPT's visit.

Establishments for juveniles and minors

Health care

recommendations

- systematic medical screening of minors and juveniles upon their admission to secure departments to be introduced without delay (paragraph 110).

The Ministry of Social Welfare has stated that children and young people whom local authorities have decided to take into care may be committed to a secure department when:

1. *absolutely required to prevent the young person from injuring himself or others, and when it has been impossible to prevent that risk safely by other, more lenient measures; or*
2. *absolutely required, in an initial observation period, to provide a basis for the further socio-educational treatment; or*
3. *it is established, on the basis of the initial observation period (see (2) above), that long-term treatment must absolutely be initiated in a secure facility.*

All Danes have free access to general practitioners and other parts of the health system. At school start and when leaving school all children and young people are offered a medical examination by either a school doctor or their general practitioner.

In the social field, extra focus has been put on children's and young people's health in recent years, particularly in connection with the 2006 Fostercare Reform. Thus, an examination and assessment must be made of all children and young people who are offered services under the Act on Social Services, including children and young people committed to secure departments. One of the aspects that must be included in the examination is children's and young people's health.

Thus, before being sent to a secure department, children and young people committed to a secure facility for social reasons have had their health matters examined either by way of a health examination of the child or the young person or by way of a statement obtained from the child's or young person's general practitioner/school doctor.

Many of the children and young people committed to secure facilities are assessed to have psychiatric problems. To examine and document these assessments a pilot project has been launched at the secure institution Egely, where 50 children and young people are screened for child and juvenile psychiatric disorders.

Against this background, it is the opinion of the Ministry of Social Welfare that the existing general measures for examination of the health of children and young people provide sufficient information about the health of children and young people, who are committed to a secure department.

Other issues related to the CPT's mandate

recommendations

- the application of limitations on detained juveniles' and minors' contact with the outside world to be reviewed. The imposition of such limitations should be the exception, not the rule (paragraph 114).

Children and young people taken into care for social reasons
In respect of children and young people committed to open and secure residential homes, the Children and Young Persons Committee may, if required because of the child's or young person's health or development, make a decision without a court order on monitoring of the child's or young person's correspondence, telephone conversations and other communication with specified people outside the institution. The decision may be made for a specified period of time. Letters and other inquiries to and from public authorities and to and from lawyers must not be monitored.

Decisions to monitor specified persons for a limited period of time are only made in exceptional cases and when required because of the child's or young person's health and development, and are thus not the rule.

Decisions made by the Children and Young Persons Committee, may be brought before the National Social Appeals Board by the custodial parent as well as other persons having custody over the child or young per-

son. If the young person concerned is over the age of 15, he or she is also entitled to lodge an appeal with the Board.

Decisions made by the National Social Appeals Board may be brought before the Court.

Young people committed to secure facilities under the rules of the Administration of Justice Act

In respect of young people who are committed under the rules of the Administration of Justice Act to secure facilities instead of being taken into custody, the police may where the investigation so requires oppose that the young person receives visits or demand that visits be monitored. The young person is always entitled to unmonitored visits by his defence counsel. Where the investigation so requires, the police may also demand to check and, if deemed necessary, stop the young person's letters before he or she receives or posts them and forbid the young person to make telephone calls to or have other communication with people outside the department or make telephone conversations and other communication conditional on them being monitored. The young person is entitled to unmonitored correspondence with the court, his defence counsel, the Minister of Justice and the Parliamentary Ombudsman. The young person must be informed about the decision made by the police and may demand that the decision be submitted to the court. Following consultation with the Minister of Justice, the Minister for Social Welfare lays down rules in an order on visits, correspondence, telephone conversations and other communication.

Reference is also made to the Government's response to paragraph 44 of the CPT's report above.

Rules in the department on contact with the external world

Taking into account the fact that secure facilities may include children and young people who have their telephone conversations and correspondence monitored, fixed telephone and visiting hours may be necessary for practical reasons, as may agreements about who can visit the child or the young person and when the visit can take place.

requests for information

- comments of the Danish authorities on the right to leave for minors and juveniles placed in secure departments under the social legislation (paragraph 115).

No rules limiting the possibilities for home leave have been laid down in legislation for children and young people committed to secure facilities, nor is there any requirement that they must have been in the department for 30 days before they can get home leave.

The parents and the child or young person have a right to parenting time and contact while the child or young person is in care. The local council must ensure that contact between the parents and the child or young person is maintained. The local council also has a duty to ensure that the parents receive information about the child's everyday life and to contribute to good cooperation between the parents and the placement facility.

If required, the local council must make decisions on the scope and exercise of as well as lay down detailed terms for parenting time and contact. Such decisions must give priority to the interests of the child or young person and the purpose of the placement. No decisions can be made on contact arrangements that are less frequent than once a month.

Thus, it will be up to the local council to decide the scope of the parenting time and contact, including the possibility of the young person visiting his family. However, the young person may need time to find his or her place in the department, and the employees may need to get to know the child or young person before permission for home leave is granted. Instead, the parents and the child or young person may spend time together in the department.

Psychiatric establishments

Ill-treatment

Response to paragraph 124 of the CPT's report
The Ministry of Health and Prevention shares the CPT's concerns about the use of prolonged physical immobilisation at the Maximum Security Unit. As stated in the response to paragraph 126 of the CPT's report below, the regional public health medical officers in the National Board of

Health check up on the data of the patients subjected to prolonged immobilisation.

It is important to distinguish between measures taken on account of the perceived danger presented by patients and measures prescribed by a course of treatment. Furthermore, there are clear differences in the way in which different countries look upon the use of physical and chemical restraints. Danish forensic psychiatry departments consider physical immobilisation to be significantly less harmful to patients than excessive use of medication and have moreover urged the Danish Psychiatric Society's Interest Group on Forensic Psychiatry to focus the issue at its national congress with the participation of a representative of the CPT (Ms Marianne Kastrup).

It should be pointed out that the patients referred to in this paragraph of the CPT's report are but three of thirty patients in all housed by the Maximum Security Unit (under the Section of Forensic Psychiatry). The patients mentioned are considered to be the three most dangerous in the country, and in each of these cases, as in all others, treatment is administered only when deemed necessary on the basis of professional judgement.

Continuous immobilisation over a prolonged period of time is seldom deemed necessary, and all efforts are made to reduce its application. In cases where physical immobilisation does prove necessary, the Maximum Security Unit is keenly alert to the continued well-being of the patients in question.

As regards the CPT's remark concerning missing doctors' signatures confirming the review of decisions to physically immobilise patients the Maximum Security Unit is unable to account for any such omissions in view of the fact that the computerised registration procedures employed require all boxes to be filled in before the protocol can be digitally registered.

<u>Response to paragraph 125 of the CPT's report</u>
As regards the CPT's remark concerning one psychiatrist who is reported to have resigned because of opposition by care staff to his attempts to limit physical immobilisation the Maximum Security Unit considers this to be a case of misunderstanding. However, it has not been possible to pursue enquiry into this specific case, since the psychiatrist in

question is no longer in the employment of the Psychiatry Division of Region Sealand.

Concerning the matter of prescribing prolonged immobilisation as a means of bringing about change in patients' behaviour please be informed that sanction is not a means employed at the Maximum Security Unit, and furthermore that immobilisation is employed only when deemed absolutely necessary in cases of danger, and that immobilised patients are released from instruments of restraint at the earliest opportunity. Immobilisation is never employed for previously defined periods of time.

<u>Response to paragraph 126 of the CPT's report</u>
It is necessary to distinguish between physical immobilisation (use of straps) and shielding (continuous personal screening).

It follows by Section 20 of the Psychiatric Act that the use of physical immobilization (the use of straps) is to be reported in the special protocol from the commencement of the measure, whereas for the use of shielding there is only requirement for reporting in the protocol if the measure last for more than 24 hours.

In the Psychiatric Act shielding is defined as measures where one or more staff members constantly stay close to the patient in order to observe/supervise the patient.

Lower levels of observation/surveillance are not regarded as coercive measures as defined in the act.

Shielding – as a coercive measure – may be used only to prevent a patient from

- *committing suicide or otherwise exposing the health of himself or others to considerable damage or*
- *persecuting or in other ways similar to this seriously molesting other patients or others.*

The decision to use shielding has to be made by the physician after attending the patient.

It follows by Section 31 and Section 32 of the Psychiatric Act that the physician after the 24 hours of shielding as a coercive measure must in-

form the patient about the basis for and purpose of the coercive measure and the possibility for filing a complaint to the Psychiatric Patients' Board of Complaints. Also a patient adviser will be assigned to the patient.

Furthermore the patient can have the decision made by the Psychiatric Patients' Board of Complaints tried in a court of law.

The Psychiatric Act lays down the conditions for using coercive measures. When these conditions no longer exist, the coercive measure must be discontinued.

As regards to long-term immobilisation it is the aim of the Ministry of Health and Prevention that the use of this should be reduced.

However, the Ministry of Health and Prevention did not find basis for establishing an absolute legal limit to the duration of immobilisation in connection with the amendment of the Psychiatric Act in 2006, as this might deprive psychiatric departments and staff of the means to undertake necessary measures for the protection of the patient concerned and other patients, should the patient's condition be unaltered at the expiry of the time limit.

In order to ensure high quality in the use of coercive measures and limit the duration of the immobilisations, the Ministry of Health and Prevention instead proposed that clear and uniform rules be laid down stipulating a minimum frequency of medical supervision and simultaneous assessment of whether the immobilisation should cease or continue.

These rules were adopted, with the result that medical assessment of the immobilisation must now take place at least four times daily at evenly spaced intervals. The aim for the systematically increased medical supervision is to focus the awareness of doctors on whether the immobilisation should be maintained, and on the possibility of alternative treatment. The overall goal is to ensure that any compulsory immobilisation, in common with other forms of coercive measures, sanctioned by law, continues no longer than absolutely necessary.

The decision to maintain immobilisation must moreover be subject to a special review if it is extended beyond 48 hours. This review is to be

undertaken by a doctor who is not employed in the psychiatric department in which the measure is being enforced, is not responsible for treating the patient, and is not a subordinate of the doctor treating the patient. This measure will secure impartiality in relation to the evaluation of the need to continue the immobilisation. The doctor undertaking the external review must be a trained medical specialist in either psychiatry or child and adolescent psychiatry, and the review may involve issues beyond just the narrow assessment of the patient, including conditions in the ward that the patient may experience as inappropriate, work organization, practices, etc.

It is the view of the Ministry of Health and Prevention that, in addition to enhancing the level of professionalism in relation to the application of long-term immobilisation, both initiatives improves the legal protection of patients' rights, as the patient will be guaranteed medical assessment at least four times a day at evenly spaced intervals, and the immobilisation will be evaluated after 48 hours by a doctor who is independent of the department in which the measure is enforced.

If there is a divergence of opinion between the assessments of the two doctors concerning the need to continue the immobilisation, the decision of the doctor treating the patient will be decisive, as this doctor will have a more in-depth familiarity with the patient's health situation than the external doctor, and is responsible for the continuing treatment of the patient. The discrepancy between the two doctors' assessments of the situation must however be communicated to the patient both verbally and in writing, as the patient must be fully informed in case of wishing to lodge a complaint to the Psychiatric Patients' Complaints Board.

Moreover, the nursing staff can at any time discontinue a physical immobilisation without prior assessment of a doctor when restraint is no longer deemed necessary.

The Ministry of Health and Prevention is of the opinion that the above-mentioned rules and the surveillance by the public health medical officers will diminish the risk of abuse and give the patients the necessary safeguards.

Furthermore, please be informed that the public health medical officers of the National Board of Health have access to the data concerning coercion, including immobilisation, in every region. According to internal

guidelines in the Board these data are controlled at least every three months to see if any patient in the region has been subjected to one of the following:

Immobilisation (uninterrupted) for more than 14 days, immobilisation (cumulated) for more than 30 days, straps (uninterrupted) for more than 5 days, or straps (cumulated) for more than 10 days.

If any one of these criteria is met, the medical officers will check up on the data of the patient in question at the beginning of the next three months to see if the coercive measure in question is continued. If so, the psychiatric ward is asked by the regional office of the National Board of Health to give a written explanation of the case, which may result in an inquiry. Furthermore, the total amount of all coercive measures in the individual ward is also kept under surveillance to see if a particular ward seems to exercise more coercion than the average ward in the region. If so, the ward is asked to explain if there have been any special reasons for this (for example a group of patients who have been unusually difficult to treat).

recommendations

- the Danish authorities to review the legislation and practice of immobilising psychiatric patients as a matter of urgency. In doing so, the authorities should take into consideration the principles and minimum standards set out in paragraph 127 (paragraph 127).

Re appropriate use of means of restraint
The Psychiatric Act contains a principle of "the least invasive measure". Due to this principle the use of restraint is not allowed until every possible step has been taken to obtain the patient's voluntary consent to the proposed measure/treatment. When ever possible, patients must be given reasonable time to consider the procedure. The use of restraint must be commensurate with the goal pursued. If less invasive measures are adequate, these must be used.

Immobilisation or any other use of restraint must never be used as a punishment or to compensate for shortages of trained staff.

It follows by Section 14 of the Act, that immobilisation may only be used to the extent necessary in order to prevent a patient from:

1. *exposing himself or others to immediate risk of bodily harm or health injury,*
2. *persecuting or in other ways similar to this seriously molesting other patients, or*
3. *vandalising to a not inconsiderable extent.*

Please be informed that the Maximum Security Unit is keen to ensure that immobilisation occurs wholly in accordance with the recommendations of the CPT.

Furthermore, immobilisation as a substitute for inadequate staff resources is not practice. Careful monitoring by the Maximum Security Unit, together with the Psychiatry Division of Region Sealand, ensures that sufficient funds are constantly available for the full provision of patient care and treatment.

<u>Re training of staff in the use of the equipment</u>
The regions are under an obligation to ensure that members of staff have the necessary training to carry out their duties and responsibilities.

"The Danish National Restraint Project" from 2004 to 2005 resulted in a reduction in the use of restraint. Some of the participating wards reduced the time of patients being immobilised by 50%.

In addition psychiatric patients and staff experienced a better quality of care when restraint was used.

"The National Restraint Project" resulted in new national standards and "best practice" concerning the use of restraint. The results of the project gave inspiration to some of the revisions of the Psychiatric Act in 2006.

Locally the regions still work with similar quality projects.

The Section of Forensic Psychiatry of the Maximum Security Unit has initiated new staff training with the explicit aim of heightening awareness among care staff. The Unit expects 48 care workers to complete such training in 2008. The course runs over 15 days and takes in theoretical input concerning conflict management as well as practical strategies for the physical management of conflict.

<u>Re duration of application of means of mechanical restraint</u>

It follows from Section 21 of the Psychiatric Act that mechanical restraint, as well as other compulsory interventions, must not be extended for a period longer than absolutely necessary. In addition to current re-examination of the justification of the intervention the senior consultant is responsible for carrying out a mandatory re-examination of the justification of the intervention.

Long-term immobilisation is one of the main points dealt with in the amended Psychiatric Act. It is the Government's aim that the use of long-term immobilisation should be reduced.

Reference is made to the Government's response to paragraph 126 of the CPT's report above for a detailed description of the rules governing immobilisation of psychiatric patients.

<u>Re exposure of restrained patients to other patients</u>
Section 14 of the Psychiatric Act contains rules regarding the surveillance of the immobilised patient. The surveillance is to take place in accordance with the patient's own wishes and with respect of his dignity and self-esteem. The patient is entitled to a certain measure of privacy unless it conflicts with considerations for the patient's safety.

The present physical layout of the Maximum Security Unit does not allow for immobilisation to be enforced out of sight of the other patients. Nevertheless, staff members do strive wherever possible to avoid observability, the permanent watch on the patient being particularly aware of the need for full discretion. At present, plans are well underway for the building of a completely new Maximum Security Unit in Slagelse and the new premises will fully meet the need for complete discretion in the case of physical immobilisation of psychiatric patients. Similarly, the interior planning of the new buildings is expected to significantly reduce the need for coercive measures.

<u>Re supervision of patients subjected to means of mechanical restraint</u>
Patients subjected to means of mechanical restraint as an involuntary measure must permanently be under special observation of a watch, cf. Section 16 of the Psychiatric Act. The permanent watch has to observe and take care of the restrained patient and may not have any other tasks while keeping watch.

<u>Re recording of instances of use of means of restraint</u>

It follows from the Psychiatric Act and Executive Order no. 1499/2006 that a record of the use of coercion must be completed with the following information:

- *Identity of the patient (name and civil registration number).*
- *Place of the use of restraint (hospital and department with codes, available in the department's file concerning the use of restraint).*
- *Date of admission as an inpatient.*
- *Date and time of commencement and discontinuation of the measure.*
- *Name of the physician prescribing the treatment. If straps are used: Date of the senior consultant's decision.*
- *Names of staff members involved.*
- *One box is filled in for each coercive measure, e.g. one space for belt and one for straps.*
- *Reason for the measure.*
- *In the case of use of straps it must be stated as a single measure with indication of the time of commencement of restraint with the first strap and the time of discontinuation (when the last strap was removed).*
- *The time and name (initials) of the physician making the assessment (as a minimum) four times during a 24-hour period must be stated.*
- *The time of assessment by an external physician, the physician's name and any disagreement with the physician providing the treatment.*

It follows from Section 46 in Executive Order no. 1499/2006 that the information written in the special register also has to be written in the patient's individual file.

<u>Re information to restrained patients on the reasons for the intervention</u>
It follows from the Psychiatric Act that before involuntary placement and other forms of coercive measures are carried into effect, the patient must be given oral and written information about the contemplated use of the compulsory measure as well as the reason for and purpose of the compulsory measure, the appointment of a patient's adviser and complaint options. If this is not possible, the patient should be given the information a soon as practicable.

<u>General response</u>

The Ministry of Health and Prevention is of the general opinion that Danish legislation already meets CPT's recommendations in this field.

Please be informed that the Ministry has asked the National Board of Health to evaluate the use of coercion in psychiatry in Denmark compared to other countries.

requests for information

- confirmation that the use of the form of physical immobilisation described in paragraph 128 has been discontinued (paragraph 128).

In March 2008 the Ministry of Health and Prevention called upon Region Sealand that it is illegal to carry out a method of restraining patients, by having their hands attached to a belt and their feet attached to each other. The Region has confirmed that the illegal method has been discontinued.

Furthermore, the National Board of Health sent a letter to all psychiatric departments in Denmark in July 2008 concerning the use of other types of immobilisation than those mentioned in the Psychiatric Act. It was explained in the letter that the use of any other type of immobilisation (e.g. the one mentioned in paragraph 128) is not in accordance with the law.

Please be informed that the Executive Committee of Region Sealand has approached the Ministry of Health and Prevention with the purpose of amending the Law so as to provide for the use of such means of restraint on the grounds that it is the only means whereby dangerous psychiatric patients who cannot commune with other patients are able to come out of isolation and experience human contact without endangering the health of others.

Staff resources

recommendations

- the Danish authorities to strive to reinforce staffing levels in the psychiatric establishments visited, in particular by increasing the number of nursing staff at the Maximum Security Unit of Nykøbing Sjælland Psychiatric Hospital and the number of psychiatrists at the Psychiatric Department of Bispebjerg Hospital (paragraph 132);

The Ministry of Health and Prevention confirms the general shortage of qualified staff in the Health Service, including in psychiatric health care.

The responsibility for the service provided in the health care lies with the regions. Therefore, the regions are obliged to ensure the appropriate staffing level in the psychiatric wards.

The National Board of Health has with the most recent plan for the specialist area increased the number of specialist training programmes. Furthermore, the number of introductory training programmes has been increased within specific specialist areas with a view to improving the recruiting 1) to areas facing seriously lack of specialists, 2) to areas where it hasn't been possible to fill vacancies in the training programmes and 3) with regard to specific national efforts.

The number of physicians in introductory positions in psychiatry has increased from 19 positions in average for each region in 2006 to 25 positions in 2007, amounting to an increase of 30 %.

Further the Danish Regions has informed that all training positions in child and adolescent psychiatry as well as in adult psychiatry have been filled in 2008.

Furthermore, the Ministry of Health and Prevention has on several occasions encouraged the regions to increase the number of psychologists and other qualified staff in psychiatry. In particular psychologists with special training will be able to take care of a number of tasks that can supplement the available number of physicians. The most resent data from Danish Regions shows that the number of psychologists in psychiatry has increased from 542 in 2006 to 596 in 2007, an increase of 10 %.

In addition, about 60 nurses receive specialist training in psychiatry each year.

- efforts to be made to improve the continuous training of doctors and nurses (paragraph 132).

Reference is made to the Government's response to paragraph 132 of the CPT's report above.

Patients' living conditions

requests for information

- up-to-date information on the plans to move the Maximum Security Unit of Nykøbing Sjælland Psychiatric Hospital to new premises in Slagelse (paragraph 133);

The Government's panel of experts on regional investment and hospital planning has proposed that the Government introduce a complete frame of investment in Region Sealand totalling 1.05 billion Dkr. This is the cost for placing the regional psychiatry in Slagelse in addition to moving the Section of Forensic Psychiatry (including the Maximum Security Unit) from Nykøbing Sjælland to Slagelse.

The Government will inform the CPT when the plans develop further.

- confirmation that steps have been taken at the Psychiatric Department of Bispebjerg Hospital to ensure that all patients whose medical condition so allows benefit from at least one hour of outdoor exercise every day in satisfactory conditions (paragraph 134).

Mental Health Services Capital Region is aware of the problem, and has taken cognizance of the CPT's comments. Both building construction and recruitment are currently under restructuring, but unfortunately it will take some time to meet the desired conditions.

Treatment

recommendations

- the situation of the patient referred to in paragraph 136 to be reviewed as a matter of urgency (paragraph 136).

The case cannot be commented upon in detail as it concerns information of a confidential nature, in accordance with the Act of Data Protection. The Department of Supervision in the National Board of Health has received a detailed explanation of the case from the Maximum Security Unit, and on the basis of this the National Board of Health has not found reason to conduct an inquiry, but finds that in this particular case there have been medical reasons for the treatment received by the patient.

The patient in question has been treated with all available forms of medication, though with only short-lived calming effects. Despite the patient's difficult condition, the present situation is that the patient is able to be heavily sedated at least once a week, whereby the above-mentioned calming effect is achieved, allowing for the patient to be bathed.

requests for information

- comments of the Danish authorities on the therapeutic grounds for confinement of patients to their rooms for prolonged periods (paragraph 137).

It follows from Section 18 a in the Psychiatric Act that confinement of patients to their rooms can be used on therapeutic grounds in preparation for

1. *establishing the necessary firm conditions for the treatment of the patient or*
2. *to shield the patient against to many stimuli.*

Confinement to the room may also be used to the extent necessary in order to prevent a patient from:

- *exposing others to immediate risk of bodily harm or health injury,*
- *persecuting or in other ways similar to this seriously molesting other patients, or*
- *vandalising to a not inconsiderable extent.*

Thus the confinement can be decided due to the security of others.

The decision to confine a patient to his or her room can only be made by a physician.

Please be informed that confinement in the instance referred to in paragraph 136 of the CPT's report occurs due to the patient being highly dangerous. Moreover, as noted, it should be emphasised that highly divergent viewpoints exist as to the use of immobilisation by means of physical restraint as opposed to medication. It should also be noted that the patient in question has tried all available forms of anti-psychotic medication for sufficient periods of time, and that the present treatment amounts to at least 3 times the normal recommended daily dosage. Despite medication, the patient remains psychotic and dangerous. All ef-

forts are being made to improve the patient's condition, and the Maximum Security Unit is in contact with the patient's parents, who are divorced, as well as his two siblings who pay regular visits. It is well established, both nationally and internationally, that a small number of psychotic patients do not respond to available psychopharmacological treatment.

Safeguards for psychiatric patients

recommendations

- targeted introduction courses to the psychiatric health system and patients' rights to be made obligatory for all patient advisers (paragraph 139).

Funding for information and educational activities for patient advisers was provided in the 1996 Finance and Appropriation Act. The balance has hence been carried forward and these funds are managed by the Ministry of Justice.

Some of these funds go to LPD (the National Association of Patient Advisers and Guardians in Denmark), which has held courses for patient advisers and guardians since 1999 and has published "A handbook for Patient Advisers" and "A Handbook for Guardians" (in Danish). The association also distributes an LPD magazine and provides information through its web site www.lpd-info.dk.

comments

- an opinion from a second doctor who is independent of the hospital concerned would offer a further, important, safeguard in the context of the transformation of voluntary stays into involuntary placements and would align the safeguards offered in such cases with those of other involuntary patients (paragraph 140).

In a situation in which a voluntary patient in hospital wishes to be discharged the senior consultant decides, based on the authority of Section 10 of the Psychiatric Act, whether the conditions for involuntary retention are fulfilled.

The issue has been dealt with in the White Paper on the Principles of Restraint Applied in Psychiatry no. 1068/1986. It argues that the rule is sensible and reasonable considering that involuntary retention is exercised after observation at a psychiatric unit for a period of time, and the basis for decision and the decision-maker are more qualified than in the case of involuntary placement where a doctor is to decide here and now, without any prior or deeper knowledge of the patient, whether involuntary placement is necessary.

The Ministry of Health and Prevention does not consider that a two-level examination procedure in this case will increase the legal protection rights of patients, as the same procedural guarantees are being accorded to a person admitted by involuntary placement or involuntary retention, including mandatory appointment of a patient adviser and access to judicial review of the deprivation of liberty. Therefore, the Government finds that the necessary safeguards are present.

requests for information

- confirmation that all forensic in-patients benefit, without exception, from the appointment of a representative with the same skills and duties as patient advisers (paragraph 141);

It follows from Section 71(1) of the Criminal Code that where there is a possibility that the court may order an accused to be placed in an institution or in safe custody, the court may appoint for him a guardian representative ("bistandsværge"), who together with the assigned lawyer is to assist the accused/defendant in the proceedings. The guardian representative should preferably be a member of the immediate family of the accused/defendant.

In pursuance of Section 71(2) of the Criminal Code, the court shall appoint a guardian representative where it is ordered that the defendant must be placed in an institution or in safe custody, or where the decision gives rise to this possibility. According to this provision, the guardian representative shall stay apprised of the condition of the convicted person, and see to it that the stay and other measures last no longer than necessary.

The legislator has thus found that a guardian representative shall preferably be a person whom the accused/defendant knows and trusts.

This preference for the immediate family has been reflected in Section 3(3) of Executive Order No. 77 of 5 February 1999 concerning Guardian Representatives as amended by Executive Order No. 1025 of 21. October 2004.

However, Executive Order No. 77 of 5 February 1999 also contains a number of safeguards concerning the suitability of Guardian Representatives.

According to Section 5(2) of the Order, the court shall thus appoint a hired guardian representative (i.e. a person who has been hired in advance to perform the duties as guardian representative when necessary) if no suitable candidate is available among the defendant's immediate family. Hired guardian representatives are selected based on their suitability for the tasks inherent in the appointment and usually among persons who are already employed in the health, social and/or educational sector.

According to Section 5(3) of the Order, the court's decision about which guardian representative is to be appointed is inter alia based on a statement made by the defendant and the intended guardian representative. The Ministry of Justice has by Circular of 25 January 1996 informed the police and Prosecution Service that this provision entails that the defendant should be made aware that a hired guardian representative is available should he prefer one.

Furthermore, according to Section 17(6), cf. Section 17(2) of the Order the court can decide that a person be disqualified from performing the task as guardian representative if he neglects the duties following from the appointment, or otherwise appears to be unsuited for the task as guardian representative.

It should be noted that patient advisors in pursuance of section 1(3) of Statutory Order No. 1495 of 14 December 2006 concerning Patient Advisors issued by the Ministry of Health and Prevention, are hired based on the same criteria as hired guardian representatives.

In light of inter alia the request for information by the CPT in its present report, the Ministry of Justice has taken the matter of safeguards for protection of the rights of forensic in-patients up for careful reconsideration.

The Ministry is of the opinion that the existing rules provide fully sufficient safeguards for forensic in-patients and that the special considerations that must be taken into account in relation to this specific group of psychiatric patients are properly reflected in the rules.

- statistical information on the use of immobilisation in psychiatric establishments in Denmark in 2007 (paragraph 142).

Statistical information on the use of immobilisation in psychiatric establishments in Denmark in 2007:

Immobilization by belt - number of persons in 2007	*Number of immobilizations by belt in 2007*	*Number of immobilizations by belt for more than 48 hours in 2007*
1811	*6675*	*588*

Since February 2006 the National Board of Health has provided information about all coercive measures in psychiatric treatment by placing a copy of the statistical data from the central register on the site: www.statistik.sst.dk.

It is the regional hospital authorities who are to decide which of their employees should have access to these personal data protected by the law regulating access to data information.

Unfortunately many employees in the psychiatric establishments have not been aware of this service in spite of the fact that the National Board of Health announced this service in February 2006 to the regional authorities and to the senior house officers.

In 2008 the National Board of Health has participated in educational courses in the new regions (five of them) with information about how to report correctly and how to use the statistics service. By September 2008 two of the five new regions have been visited and a plan for educational courses in the remaining three regions is almost finished.

Moreover, in 2008 the National Board of Health has established a – temporary – quick service for the employees to require access within one day to data from the psychiatric establishment, from where they have reported coercive measures the week before. The regions are to decide how to manage this service in the course of the next few months.

The psychiatric establishments' current access to information about the reported coercive measures will contribute to ensure a higher level of quality.

The statistical information from the National Board of Health from 2007 shows, that generally there is a slight decrease in the use of restraint. Also there is a decrease in the use of immobilization by belt for more than 48 hours.

The Ministry of Health and Prevention is monitoring the use of restraint in psychiatry continuously and expects that the revisions of the Mental Health Act and the continuous focus on use of restraint in psychiatry will cause the use of restraint in psychiatry to decrease further over the coming years.