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## **Report**

**to the Danish Government  
on the visit to Denmark  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 4 to 13 February 2014**

The Danish Government has requested the publication of this report.

Strasbourg, 17 September 2014

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**Copy of the letter transmitting the CPT's report**

Mr Martin Bang  
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Human Rights Unit  
Ministry of Foreign Affairs Asiatick  
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Denmark

Strasbourg, 17 July 2014

Dear Mr Bang,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Denmark from 4 to 13 February 2014. The report was adopted by the CPT at its 84<sup>th</sup> meeting, held from 7 to 11 July 2014.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Danish authorities to provide within **six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Danish authorities to provide, in the above-mentioned response, reactions to the comments and requests for information formulated in this report.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Latif Hüseyinov  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## EXECUTIVE SUMMARY

The CPT's fifth periodic visit to Denmark was an opportunity to review the implementation of recommendations made by the Committee during previous visits. To this end, the delegation examined the treatment of persons detained by the police and of inmates in several prison establishments, as well as of young persons held in two secure institutions for juveniles. In addition, three psychiatric establishments were visited, with a particular focus on the use of coercive measures on patients. A targeted follow-up visit to Ellebæk immigration detention centre was also carried out. The cooperation received by the Danish authorities was of an excellent standard. Nevertheless, the principle of cooperation also requires that decisive action be taken to improve the situation in the light of the CPT's key recommendations, and the findings of the 2014 visit suggest that such action has not been taken since the 2008 visit as regards the imposition of judicial restrictions on remand prisoners, the practice of the use of fixation in prisons and prolonged application of mechanical restraints on psychiatric patients.

### Policing

Most detained persons met by the CPT's delegation stated that they had been treated correctly by the police. Some allegations of excessive use of force at the moment of apprehension and of tight handcuffing were received and the Danish authorities are asked to remind police officers to use no more force than is strictly necessary. The Committee welcomes the establishment of the Independent Police Complaints Authority to investigate complaints of police ill-treatment and to fight against impunity. In this connection, the CPT recommends that all police officers should wear an identity number or name badge for identification purposes. Several recommendations are also made to strengthen the safeguards afforded to persons deprived of their liberty by the police, notably as concerns the right of detained persons to be granted effective access to a lawyer as from the very outset of custody. In addition, persons should be provided with clear information in a language they can understand about their rights in police custody. Material conditions in the police stations visited were generally satisfactory for short periods of detention.

### Prisons

Relations between staff and inmates in the establishments visited were generally correct and no allegations of deliberate ill-treatment were received. The CPT was concerned about the inter-prisoner violence, intimidation and sexual exploitation at Ringe State Prison, and recommends a comprehensive anti-bully strategy be put in place, and that proactive measures be taken to prevent sexual exploitation of female prisoners.

The CPT welcomes the downward trend in the resort to solitary confinement of remand prisoners by court order. As for the practice of judicial restrictions on remand prisoners' contacts with the outside world, the Committee recommends that the safeguards surrounding the application of this measure be reinforced, especially the longer the measure lasts. Recommendations are also made to review the placement policy at Copenhagen Police Headquarters Prison and to improve association possibilities for all prisoners in this establishment. The report also addresses the situation of a particular inmate in long-term administrative segregation currently held at Vridsløselille Prison, and makes recommendations concerning the treatment of such prisoners.

The conditions of detention in the prisons visited were generally satisfactory although Western Prison requires a rolling programme of upgrading. Numerous complaints were, however, received from prisoners concerning access to the toilet, particularly at night.

Prisoners generally had access to health-care services within a reasonable time and staffing levels were mostly adequate in the establishments visited. However, there is a need to ensure all inmates are properly interviewed and physically examined by health-care staff within 24 hours of admission to prison. Further, medical confidentiality, particularly at Western Prison, needs to be strengthened and additional action taken to tackle substance abuse in prisons.

The delegation's findings that prisoners often relied on other inmates to tell them about the regime and rules reinforce the CPT's recommendation to introduce a comprehensive reception and induction process in remand prisons, with prisoners provided with information in a language that they can understand. The importance of the role of staff in prisons and of investing in their training is emphasised, notably as concerns inter-personal communication. The appointment of a dedicated foreign national prison officer at Western Prison is proposed.

The delegation found that the disciplinary procedure is properly applied. Nevertheless, the CPT recommends that the legal provisions on discipline be revised to bring them into line with the Committee's position (i.e. that solitary confinement as a disciplinary punishment should not exceed 14 days). As regards security-related issues, the CPT recommends that the application of pepper spray in prisons and the use of observation cells, both for prisoners at risk of suicide or self-harm and for prisoners who are disruptive or violent, be reviewed. Further, the CPT is again critical of the application of the measure of immobilisation in prisons and recommends that steps be taken to ensure that the principles and minimum safeguards set out by the Committee are applied rigorously. Contacts with the outside world for prisoners are generally good. However, the prisoner complaints system should be reviewed to provide prisoners with confidence in its effectiveness and management with a clearer indication of the issues which can be raised.

#### *Foreign nationals held under aliens legislation at Ellebæk*

The main concerns at Ellebæk relate to the need to maintain the establishment in a decent state of repair, to limit the carceral environment to a minimum and to ensure regular activities are offered. Further, the CPT recommends that all newly-arrived detainees are clinically assessed and that a specific screening be put in place aimed at identifying victims of torture. There is also a need to improve communication with the detainees and to enhance their contacts with the outside world.

#### *Juveniles*

Juveniles at Grenen and Sølager Secure Institutions for Juveniles were accommodated in well-staffed small living units and relations between staff and the young persons were positive. No allegations of ill-treatment were received by the CPT's delegation. Nevertheless, the Committee remains concerned that the majority of juveniles on remand had judicial restrictions placed on their contacts with the outside world, often for extensive periods. The Committee reiterates its recommendation that the imposition of such limitations should be the exception, not the rule.

The delegation found that, at “Grenen”, juveniles were usually confined to their rooms upon admission to the institution for up to a week or longer before being permitted to associate with the rest of the group. The CPT recommends that the period of such a confinement – if needed at all – should be as short as possible and always based on an individual assessment. Further, human contact and at least one hour of outdoor exercise per day should be offered to all juveniles subject to this measure.

At both secure institutions, the Committee noted positively the offer of a wide range of structured activities and a pedagogical approach aimed at promoting a sense of community as well as very good material conditions. On the other hand, the CPT considers that all newly admitted juveniles should be medically assessed upon admission by a health-care professional. It also recommends that the presence of at least one female staff member should be assured at “Grenen” whenever female juveniles are being accommodated.

As regards juveniles in prison, the CPT recommends that the Danish authorities review the policy of placing juveniles remanded in custody pending trial in a prison establishment rather than a secure institution for juveniles. It further proposes that sentenced juveniles might be located on the grounds of an open prison accommodating juveniles as opposed to the current arrangement of being placed in a small unit within Ringe State Prison.

### Psychiatry

The CPT welcomes the constructive attitude and the overall acknowledgement, both by the central authorities and the staff in the hospitals visited, of the need to reduce the resort to physical immobilisation of patients to a bed (*fiksering*). However, it remains seriously concerned that resort to immobilisation, and notably immobilisation lasting longer than 48 hours, had reached all-time peaks in 2012 and 2013 and that in several cases patients had been immobilised for periods from one to three months. Recommendations are also put forward to enhance the range and frequency of therapeutic and recreational activities available to patients and to ensure that – health permitting – all of them are offered at least one hour of outdoor exercise per day.

The CPT examined the special coercive measure of “walking-restraint” at the Secure Department of Nykøbing Sjælland Psychiatric Hospital, which had been legalised in 2010, and it found that the measure was applied with appropriate supervision and outside monitoring and as much respect for the patient’s dignity as possible. Nevertheless, the CPT stresses that the utmost care should be taken to ensure that “walking-restraint” is only applied to patients whose condition requires restraint and that the measure should be ended as soon as it is no longer necessary. The CPT’s delegation also found that patients were locked in their rooms for extensive periods of the day at this special department and the Committee recommends that resort to this measure be radically reduced.

The CPT considers that most of the shortcomings found in the three psychiatric hospitals visited, including resort to frequent and prolonged use of restraint, are at least partly due to low staffing levels. It calls upon the Danish authorities to reinforce staffing levels in these three hospitals, and notably the number of nurses. As regards safeguards surrounding the involuntary placement of patients in a psychiatric hospital, the CPT reiterates its recommendation that the retention of a voluntary admitted patient requires the opinion of a second, independent doctor.



## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Denmark from 4 to 13 February 2014. The visit formed part of the Committee's programme of periodic visits for 2014, and was the CPT's fifth periodic visit to Denmark.<sup>1</sup>

2. The visit was carried out by the following members of the CPT:

- Wolfgang HEINZ, Head of delegation (German)
- Maria José GARCIA GALAN SAN MIGUEL (Spanish)
- Andrés MAGNUSSON (Icelander)
- Ivan MIFSUD (Maltese)
- Jari PIRJOLA (Finnish).

They were supported by Hugh CHETWYND (Head of Division) and Almut SCHRÖDER of the CPT's Secretariat, and assisted by:

- Jane FOWLER, medical doctor, Dorset Health Care University Foundation Trust, United Kingdom (expert),
- Pétur HAUKSSON, psychiatrist, former head of the psychiatric department at Reykjalundur Rehabilitation Center, Iceland (expert),
- Mette AARSLEW (interpreter),
- Jørgen ENGRAF (interpreter),
- Heidi FLEGAL (interpreter),
- Jan Als JOHANSEN (interpreter),
- Annette LASSEN (interpreter),
- Deborah J. SHIELDS (interpreter),
- Anna ZOEGA (interpreter).

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<sup>1</sup> The CPT's previous visits to Denmark took place in December 1990, September/October 1996, January/February 2002, and February 2008. A visit to Greenland took also place in September 2012. The reports on those visits have been published, together with the responses of the Danish Government, and may be found on the Committee's website (<http://www.cpt.coe.int>).

**B. Establishments visited**

3. The delegation visited the following places:

*Police establishments*

- Aarhus Police Headquarters
- Odense Police Headquarters
- Bellahøj Police Station, Copenhagen
- City Police Station, Copenhagen
- Roskilde Police Headquarters

*Prisons*

- Western Prison (*Vestre Faengsel*), Copenhagen
- Copenhagen Police Headquarters Prison (*Politigårdens Faengsel*)
- Aarhus Remand Prison (*Arresthuset*)
- Odense Remand Prison (*Arresthuset*)
- Ringe State Prison
- Vridsløselille Prison (targeted visit to high-security section A1)

*Establishments for the detention of minors and juveniles*

- Secure Institution for Juveniles Sølager, Hundested and Skibby
- Secure Institution for Juveniles Grenen, Grenaa

*Establishments for the detention of foreign nationals*

- Ellebæk (formerly “Sandholm”) Prison and Probation Establishment for Asylum-seekers and Others Deprived of their Liberty

*Psychiatric establishments*

- Psychiatric Centre Amager, Copenhagen
- Nykøbing Sjælland Psychiatric Hospital
- Mental Health Centre Sct. Hans, Roskilde

**C. Consultations held by the delegation and co-operation encountered**

4. The delegation had consultations with Jesper ZWISLER, Permanent Secretary of State of the Ministry of Children, Gender Equality, Integration and Social Affairs, Kim LUNDING, Deputy Permanent Secretary of the State Ministry of Justice, Johan REIMANN, Director-General, Danish Prison and Probation Service and Vagn NIELSEN, Director of the Danish Health and Medicine Authority.

The delegation also met Kirsten DYRMAN, Director of the Independent Police Complaints Authority. Further, it held meetings with representatives of the Parliamentary Ombudsman, the Danish Institute of Human Rights and members of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and organisations met by the delegation is set out in the Appendix to this report.

5. The co-operation received by the CPT's delegation throughout the visit, from both the national authorities and staff at the establishments visited was of an excellent standard. The Committee's delegation enjoyed rapid access to all the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, it was provided with all the necessary documentation, and additional requests for information made during the visit were promptly met. In this context, the CPT wishes to express its appreciation for the assistance provided to its delegation both during and after the visit by the various liaison officers designated by the Danish authorities.

However, the principle of co-operation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's key recommendations. The delegation's findings during the 2014 visit suggest that such action has not been taken in certain areas which have given rise to serious concerns by the CPT in the past, in particular as regards the imposition of judicial restrictions on remand prisoners, the practice of the use of fixation in prisons and the prolonged application of mechanical restraints on psychiatric patients.

**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.**

6. At the end of the visit, the CPT's delegation provided the Danish authorities with its preliminary remarks on the findings of the visit. By letter of 4 June 2014, the Danish authorities provided a response to the various matters raised by the delegation which has been taken into account in the relevant sections of the report.

**D. National Preventive Mechanism**

7. Denmark ratified the Optional Protocol to the United Nations Convention against Torture (OPCAT) in June 2004 and the Parliamentary Ombudsman was designated as the National Preventive Mechanism (NPM) in 2007. Two years later, the Parliamentary Ombudsman concluded agreements with both the Danish Institute of Human Rights and DIGNITY (formerly the Rehabilitation and Research Centre for Torture Victims), aimed at strengthening the Ombudsman's monitoring activities by involving civil society organisations. The Parliamentary Ombudsman's budget was increased to cover its NPM activities and DIGNITY has been provided with specific funding for the medical expertise it provides for monitoring visits. The management from the three institutions meet at few times a year to discuss and plan the overall guidelines for the work while each institution has appointed staff members to carry out the core work under the coordination of the Parliamentary Ombudsman's Office.

The NPM has taken a thematic approach to its monitoring activities: for example, focusing on children and juveniles deprived of their liberty in 2011; prison establishments in 2012, drug abuse and continuity of care between prison and the community and prevention of violence in 2013; and psychiatric problems and suicide prevention in prison will be the themes for 2014. The NPM also monitors approximately 15 return flights every year.

As regards the working methodology, the NPM has decided to no longer draft reports following each monitoring visit but rather to raise any concerns directly with the management of the institution concerned orally and in the form of a letter. In case of more serious concerns, for instance, degrading treatment or illegal use of physical force, the Parliamentary Ombudsman raises the matter with the relevant authorities and may issue written criticism and recommendations to the institutions and the responsible authorities. The outcomes of the monitoring visits have been compiled in the annual NPM report, the latest one being the 2012 report which was completed on 23 December 2013.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Law enforcement agencies

#### 1. Preliminary remarks

8. The legal provisions governing the detention of criminal suspects by the police have been summarised in the CPT reports on the 2002 and 2008 visits.<sup>2</sup>

In brief, a detained criminal suspect must be brought before a judge within 24 hours and the judge may extend police custody for a further 72 hours.<sup>3</sup> However, as was the case at the time of the 2008 visit, in practice police custody tended to be for short periods (usually not longer than eight hours) and criminal suspects detained overnight tended to be accommodated in the local remand prison. It is also recalled that the 2005 Police Act stipulates the powers of the police in general and regulates police activities in cases other than criminal prosecution. Pursuant to this Act, the police may administratively detain for a maximum of six hours a person who endangers public order, peace and security.<sup>4</sup>

The power to administratively detain persons was extended to 12 hours for public gatherings and crowds and has been used on several occasions by the police to preventively detain groups of persons. During the 2009 Climate Change Conference in Copenhagen some 1,900 persons were detained pre-emptively and following a series of complaints regarding *inter alia* their conditions of detention, in December 2010 the Copenhagen Municipal Court ruled that the manner in which the persons were detained was a breach of Article 3 of the European Convention on Human Rights. Further cases where this power was used concerned demonstrations in Copenhagen on 18 May 2011 and in Aarhus on 31 March 2012.

**The CPT would like to be informed of the steps taken by the Danish authorities to ensure that all persons preventively detained by the police are held in appropriate conditions.**

#### 2. Ill-treatment

9. Most of the persons met by the CPT's delegation in the course of the 2014 visit who were, or had recently been, detained by the police stated that they had been treated correctly both at the time of apprehension and during questioning. However, a number of persons complained of excessive use of force at the time of apprehension, usually after they had been placed on the ground and/or handcuffed. One person alleged that police officers had beaten him with truncheons and used pepper spray when he was arrested driving a stolen vehicle; staff at Aarhus Remand Prison recalled this person being "bruised all over" and his medical records noted "pronounced bruising after violent arrest. Sutures to temporal area. Left eye swollen and red." However, there was no information about any follow-up or of the case having been reported to the Independent Police Complaints Authority.

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<sup>2</sup> See CPT/Inf (2002) 18, paragraph 6 and CPT/Inf (2008) 26, paragraph 7.

<sup>3</sup> See Article 71 of the Danish Constitution and Section 760 of the Administration of Justice (Consolidation) Act.

<sup>4</sup> See Sections 5(3), 8(3) and 9(3) of the Police Act (Act No. 444 of 9 June 2004).

Several persons also complained of tight handcuffing which had apparently left their fingers numb, and in two cases the delegation could still observe the reddish marks around the wrists that had been left by the handcuffs respectively three and seven days earlier. In addition, a few persons who had been bitten and held by a police dog alleged that the dog handler had been deliberately slow to call off the dog once the person concerned had been brought under control.

**The CPT recommends that the Danish authorities remind police officers that they should use no more force than is strictly necessary when carrying out an arrest and that where it is deemed essential to handcuff a person, the handcuffs are under no circumstances excessively tight and are applied only for as long as is strictly necessary.** See also paragraph 108 concerning the handcuffing of juveniles during transport.

10. The CPT has consistently advocated that all complaints or other indications of ill-treatment should be thoroughly investigated and any perpetrators appropriately punished. In this respect, it welcomes the establishment of the Independent Police Complaints Authority (see section 5 below). Nevertheless, it considers that the Danish authorities need to reinforce the message that torture and inhuman or degrading treatment have no place within the police, military and other law enforcement agencies. To this end, torture should not only constitute an aggravating circumstance but be a specific criminal offence in the Criminal Code. Defining and criminalising the crime of torture is central to fighting impunity, which is one of the root causes of the widespread practice of torture. The CPT concurs with the UN Committee against Torture that the importance of naming and defining the offence of torture in accordance with Articles 1 and 4 of the United Nations Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment as distinct from other crimes will directly advance the overarching aim of preventing torture, inter alia by alerting everyone to the specific gravity of the crime of torture and by improving the deterrent effect of the prohibition itself.<sup>5</sup>

**The CPT recommends that the Danish authorities incorporate torture as a specific offence under national criminal law.**

11. Further, in the fight against impunity and to enhance the accountability and professionalism of the police, the CPT considers that all police officers should wear an identity number tag (or a name badge) on their uniform or clothing. In the course of the 2014 visit, the CPT's delegation was informed that a number of investigations into allegations of ill-treatment by police officers had to be closed because the police officers in question could not be identified. The current arrangement of a police officer having to identify him/herself if requested is not sufficient; at a minimum, all police officers, including those from the anti-riot and other specialised units, must wear an identity number which will permit the police hierarchy and prosecutors to identify an officer if required. Further, the concerns of the Danish authorities that police officers will be specifically targeted if they can be identified appears exaggerated when examining experiences from most other European countries where law enforcement officials are obliged to wear some form of identification on their uniforms or clothing. Moreover, the experience of prison officers in Denmark wearing identification badges militates against such an argument.

**The CPT recommends that all police officers wear an identity number or name badge for identification purposes.**

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<sup>5</sup> See UNCAT concluding observations of 16 July 2007 - CAT/C/DNK/CO/5, paragraph 10.

### 3. Safeguards against ill-treatment

12. In the course of this visit, the CPT's delegation reviewed the safeguards afforded to persons deprived of their liberty by the police; namely, the rights of such persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer, and to have access to a doctor. It also examined whether such persons were informed without delay of all their rights and whether the custody records were properly filled out.

It is recalled that Ministry of Justice Circular no. 9155 of 18 March 2010 sets out detailed rules and procedures to be followed by the police with regard to the rights of detained persons. Further, the Danish authorities in their response to the 2008 visit report reiterated that the Circular is binding on police officers, who may be subject to disciplinary sanctions for non-compliance with its provisions.

#### a. notification of custody

13. Section 2(2) of the above-mentioned Circular of 18 March 2010 provides that all persons detained by the police have the right to inform their relatives or other relevant persons of their arrest. However, pursuant to Section 2(3) of the Circular, the detained person can be denied this right temporarily or definitely, if, due to the specific circumstances of the case, information about the arrest may in itself compromise the investigation. The decision to delay or deny the detained person his/her right to inform, or to have his/her relatives or other relevant persons informed of the arrest is made by the officer on duty or by the officer in charge of the investigation. Any decision to delay or deny such notification must be recorded in the detention report or protocol (see Section 2(6) of the Circular).

The CPT recognises that the exercise of the right of notification might have to be made subject to certain exceptions, in order to protect the legitimate interests of the police investigation. However, such exceptions should be clearly defined in law and strictly limited in time, and resort to them should be accompanied by appropriate safeguards (for example, any delay in notification of custody should be recorded in writing with the reasons therefor, and require the approval of a senior police officer unconnected with the case or a prosecutor). At present, the power to delay notification of custody is neither clearly defined nor strictly limited in time, and resort to that power does not appear to be accompanied by the above-mentioned safeguards. **The CPT recommends that appropriate measures be adopted to remedy these deficiencies.**

14. In the course of the 2014 visit, a number of persons detained by the police who were interviewed by the CPT's delegation complained that they had not been permitted to contact their relatives, and that it was not possible to verify from police detention records whether notification of custody had taken place. All detained persons should be provided with feedback on whether it has been possible to contact their family or a third person.

**The CPT reiterates its recommendation that the Danish authorities ensure that all persons detained by the police are able, in practice, to enjoy the right to inform a relative or a third party of their choice, of their situation as from the very outset of their deprivation of liberty. Further, such notification should be properly recorded and detained persons provided with feedback on whether a member of their family or third person was contacted.**

b. access to a lawyer

15. As the CPT has stated in the past, its objective of guaranteeing an effective right of access to a lawyer during police custody is not primarily linked to issues of due process or the right to a fair trial; it is aimed at preventing ill-treatment. In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest.

It follows that to be effective as a safeguard against ill-treatment, access to a lawyer must be guaranteed as from the very outset of deprivation of liberty. The right of access to a lawyer must include the right to talk to him/her in private; the detained person should also, in principle, be entitled to have the lawyer present during any interview with the police.

16. Danish law provides for the right of access to a lawyer upon deprivation of liberty by the police and includes *inter alia* the right to have a lawyer present during questioning and to consult with a lawyer in private.<sup>6</sup> Access to a lawyer should in principle be granted as soon as a detained person is brought to a police station.<sup>7</sup> However, in the course of the 2014 visit, a number of detained persons with whom the CPT's delegation met stated that they had not been informed of their right to meet a lawyer at the police station and in a few cases that their requests to contact a lawyer and have him/her present during questioning had not been granted. No explanations were provided. Once again, the majority of the detained persons interviewed by the delegation indicated that the first time they had met a lawyer was in court, a few minutes before the application of the measure of remand custody was decided. Moreover, there was no clear record of whether a detained person had requested to see a lawyer and whether such a request was granted. In addition, police stations did not always possess a list of *ex officio* lawyers whom a detained person could consult.

**The CPT recommends that the Danish authorities take the necessary steps to ensure that the right of all detained persons to have access to a lawyer is effective *in practice* as from the very outset of custody. Further, it recommends that, in association with the Bar Association, a list of *ex officio* lawyers which detained persons can consult be compiled for each police station. In addition, a record should be maintained of any request by a detained person to see a lawyer and whether such a request was granted.**

c. access to a doctor

17. The CPT's delegation received no complaints regarding access to a doctor in the context of detention by the police. However, it was informed about a survey carried out by The Street Lawyers<sup>8</sup> of 50 drug users who had been detained by the police and who alleged that they had been denied access to medical care while in police custody. It is alleged that the lack of treatment for their withdrawal symptoms had a negative impact on the way in which they answered questions during police interviews, including false confessions. **The CPT would appreciate the comments of the Danish authorities on this matter.**

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<sup>6</sup> See Sections 730 and 745C of the Administration of Justice Act and Section 3(3) of the Ministry of Justice Circular No.9155 of 18 March 2010.

<sup>7</sup> See Sections 2(2) and 3(1) of the Ministry of Justice Circular No. 9155 of 18 March 2010.

<sup>8</sup> A non-governmental organisation that provides legal aid services to vulnerable and marginalised groups in



Further, the Committee considers that the reporting of injuries should be improved. Where a doctor noted down injuries to a detained person in police custody, there was no description of the circumstances under which the injury occurred. It appeared that the detained person was not asked to explain the circumstances of the injury and the doctor was under no obligation to elicit an explanation of the injuries and to record whether or not the injuries were consistent with the version provided by the detained person. There was also no apparent reporting procedure by which doctors could formally alert senior police officers or the Independent Police Complaints Authority about any injuries which were consistent with allegations of excessive use of force or ill-treatment. **The CPT recommends that steps be taken to put in place a proper reporting system for all such injuries recorded by doctors of persons in police custody** (see also paragraph 52).

d. information on rights

18. In the course of the 2014 visit, a number of detained persons with whom the CPT's delegation met stated that they had not been informed of their rights or that they had not been informed of their rights in a language they could understand. The information sheet, "Guidelines for persons under arrest", was not systematically provided to every person detained by the police.

In the Danish authorities' response to the report on the 2008 visit, they had reiterated that "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" and that "observance of this requirement must be recorded in the detention report or protocol, cf. Section 1(3)".

**The CPT recommends that steps be taken to ensure that all persons detained by the police are systematically informed of their rights, orally at time of deprivation liberty and through the provision of an information sheet, in a language they can understand, upon detention at the police station. Further, consideration should be given to a specific record being maintained 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.**

#### 4. Conditions of detention

19. The material conditions in all the police stations visited were, on the whole, satisfactory for short periods of detention. The detention cells for administrative detainees (usually intoxicated persons) and the holding cells for criminal suspects were between 6m<sup>2</sup> and 8m<sup>2</sup> and were designed for single-occupancy use. Persons were never held for longer than six hours at Aarhus and Odense Police Stations and even in the Copenhagen police stations, where the periods of detention could be longer, if a person had to be detained overnight he or she would be transferred to the local remand prison.

The main deficiency observed was a lack of access to natural light and insufficient artificial lighting in the cells in the stations visited, which made reading difficult. The delegation, also received complaints from persons recently detained in police stations who had not been offered anything to eat despite being held there for several hours. Indeed, at the Copenhagen City Police Station and Roskilde Police Station, the delegation was informed that detained persons were only offered a meal after having been detained for eight hours. The CPT considers that all detained persons should be offered something to eat at appropriate times during the day. **The CPT recommends that steps be taken to remedy these deficiencies.**

## **5. Independent Police Complaints Authority**

20. On 6 April 2010, an amendment (Chapter 11a) to the Administration of Justice Act was adopted establishing an Independent Police Complaints Authority (*Den Uafhængige Politiklagemyndighed*). The Authority is tasked with handling complaints concerning the conduct of police personnel and investigating criminal offences committed by police personnel while on duty as well as cases concerning the death or injury of persons in police custody. It started operating on 1 January 2012.

The Authority initiates an investigation either upon the receipt of a complaint or on its own initiative, and it is required to initiate an investigation where a person has died or been seriously injured as a result of a police intervention or if the person in question was in police custody. Whenever a complaint is filed with the police or the prosecutor's office, it will be forwarded to the Authority.

When the Authority has finished its investigation in criminal cases involving police personnel, the Authority will forward the case to the regional public prosecutor, who then decides whether a prosecution should be brought. The regional public prosecutor's decision in respect of prosecution may be appealed by either party to the case, or by the Authority, to the Director of Public Prosecutions.

21. The Independent Police Complaints Authority is headed by a Police Complaints Council (*Politiklageråd*), composed of a high court judge (who heads the Council), a private practising attorney, a professor of law and two representatives of the general public.

At the time of the visit, the staff of the Authority consisted of some 25 persons; the Director (a former public prosecutor for 25 years), eight investigators, 11 lawyers from various professional backgrounds and support personnel. The eight investigators were former police officers, each of whom had more than 20 years of professional experience and who had left the police to join the Authority. There had been an internal debate concerning the perceived independence of these investigators but on balance it was concluded that it was more important for the Authority to demonstrate its professional competence in carrying out investigations and to build up its trust with both the public and the police through its actions. However, the Authority plans in the future to recruit young professionals from outside the police and to train them in carrying out investigations, drawing on the expertise of their current staff.

**The CPT would be interested to learn more about the Independent Police Complaints Authority's plans to recruit and train young professionals as investigators.**

22. The Authority handles all aspects of inquiries and investigations, and has the power to subpoena witnesses, request a forensic examination and arrest suspects. However, the police themselves may deal with urgent matters concerning inquiries and investigations, such as securing a murder scene and obtaining a list of witnesses. In addition, the Authority may request the National Police to provide assistance with its investigations. Certain complaints may be resolved directly by the police through the complainant speaking with a senior officer at a police station but such a resolution is only possible with the agreement of the complainant. And, the Independent Police Complaints Authority will always be informed of the complaint and may decide to initiate an investigation into any case. For misconduct cases, the Authority must complete the investigation within six months and forward its findings to the Commissioner of the National Police who is responsible for instituting any disciplinary measures. At the time of the visit, the Director of the Authority informed the CPT's delegation that all cases were completed within this deadline and that as far as the Authority could tell, the measures instituted by the Police Commissioner had been proportionate. For criminal cases, the investigation should be completed and a decision by the regional prosecutor to prosecute or not taken within 12 months. These deadlines were generally met although in complex cases there was a possibility for an extension.

23. During its first year of operation, the Authority received 1919 cases of which 886 were criminal in nature, 726 were complaints about the conduct of police officers and 307 were classified as "other" (i.e. administrative cases that did not fall within its mandate). In 2013, there were 893 criminal cases, 653 complaints about conduct and 552 other cases, bringing the total to 2098 cases. Roughly 50% of the criminal cases in both years concerned traffic offences. As regards those cases falling under paragraph 1020a, Section 2, of the Administration of Justice Act, which involves death or serious injury as a result of police action or which occurred while a person was in police custody, there were 21 such cases in 2012 and 16 in 2013.

At the time of the visit, the CPT's delegation was informed that there had only been one case where the Director of Public Prosecutions had upheld a decision of a regional prosecutor not to pursue a case despite the Authority considering that sufficient evidence existed for prosecution.

Nevertheless, there has been some criticism of the Authority for not pursuing police officers accused of having ill-treated a detained person with sufficient speed. This perception was reinforced by a television interview of a lawyer representing police officers who stated that his clients always had plenty of time to corroborate their stories with each other before being interviewed by the Independent Police Complaints Authority.

24. In sum, the Independent Police Complaints Authority has the necessary powers and sufficient resources to carry out effective investigations into cases of alleged ill-treatment by police officers; to this end, a few cases have been brought to trial. The CPT encourages the Authority to continue to develop its good practices in investigating allegations of ill-treatment. It also welcomes the proposed review of the operation of the Authority in 2015 as a means to further enhance its effectiveness as well as an opportunity for its critics to air their concerns constructively.

**The CPT trusts that the Danish authorities will continue to provide the Independent Police Complaints Authority with the necessary resources to carry out its functions effectively. It would like to be informed about the nature and, in due course, the outcome of the above-mentioned review into the Authority.**

## **B. Prison establishments**

### **1. Preliminary remarks**

25. At the time of the visit, the Danish prison system was holding 3,849 prisoners<sup>9</sup> for an overall capacity of 4,184 in a total of 57 establishments. The CPT's delegation was informed that the aim of the Danish Prison and Probation Service was to operate the prisons at 94% capacity within three years, increasing existing occupancy levels by 2%. However, these overall figures mask the fact that certain establishments were already operating at the limits of their capacity or even beyond. For example, the six closed prisons were operating at 99% occupancy level (888 inmates for a capacity of 895) and the Copenhagen Prisons at 102% (568 prisoners for a capacity of 557). Further, it should be recalled that even with an occupancy level of 95% of the total design capacity of a prison estate, it becomes nigh impossible for a prison service to deliver what is required of it<sup>10</sup> and, more particularly, to ensure respect for inmates' human dignity.

In the period since the 2008 visit, the Danish authorities have expanded the use of electronic monitoring and the use of alternatives and the overall prison population has increased by some 200 persons in six years. However, the number of prisoners on remand remained high, standing at 33.8% of the overall prison population in September 2013. In this respect, the CPT's delegation was informed that there was a conscious policy by the public prosecutor's office to address this question and that the numbers on remand were decreasing.

**The CPT recommends that the Danish authorities take the necessary steps to ensure that all prisons operate within their design capacity and that they pursue their efforts to manage the prison population, taking due account of the relevant Recommendations of the Committee of Ministers of the Council of Europe in this area, in particular: Recommendation No. R(99)22 concerning prison overcrowding and prison population inflation; and Recommendation Rec(2006)13 on the use of remand in custody.**

26. In the course of the 2014 visit, the CPT's delegation visited for the first time Ringe State Prison and the remand prisons in Aarhus and Odense. It also carried out follow-up visits to Western Prison and Copenhagen Police Headquarters Prison and paid a targeted visit to Vridsløselille Prison.

Ringe State Prison, located outside Odense, was built in 1976 and accommodates young sentenced men aged up to 24 years' old from throughout Denmark and sentenced men under the age of 29 from the region. It is also the only closed prison for sentenced women and juveniles. At the time of the visit, the establishment was holding 84 persons (68 men, 15 women and one juvenile) in seven single-storey accommodation units.

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<sup>9</sup> Denmark's prison population rate is 73 per 100,000 inhabitants.

<sup>10</sup> For example, to maintain safety through possessing sufficient bed capacity to accommodate prisoners according to different categories or to separate inmates in case of conflict.

Aarhus and Odense Remand Prisons, built in the 19<sup>th</sup> century, are both centrally located adjoining their respective city court house. At the time of the visit, Aarhus Remand Prison was holding 55 men, four women and one male juvenile for a capacity of 66 persons and Odense Remand Prison was accommodating 42 men and five women for a capacity of 68. The buildings of both prisons were somewhat dilapidated.

Western Prison, built in 1895 and enlarged in 1918, is a cross-shaped building with four accommodation blocks each consisting of four floors; *Nord*, *Syd* and *Ost* held male prisoners while the upper two floors of *Vest* accommodated female prisoners. The two-storey hospital wing had 36 cells and took prisoners from all over the country. Each wing had its own exercise yard. The establishment primarily houses persons remanded in custody (awaiting trial or sentencing) as well as some short-term prisoners and irregular migrants awaiting deportation. At the time of the visit, the prison was holding 447 prisoners for an official capacity of 446; of these, 413 were male and 34 female and some 95% of the inmate population was on remand.

The Police Headquarters Prison in Copenhagen,<sup>11</sup> originally built in 1924, was refurbished specifically to accommodate “negatively strong” inmates (see paragraph 28 below). The establishment re-opened in October 2004 with a capacity of 25 prisoners, and at the time of the visit was accommodating 21 persons.

## 2. Ill-treatment

27. The CPT’s delegation heard no allegations of deliberate physical *ill-treatment* of prisoners by staff in the prisons visited. Indeed, the delegation found that relations between staff and inmates in the various prison establishments visited were generally correct and many prisoners spoke positively about the way in which staff acted.

However, a few prisoners made allegations of excessive use of force by prison staff at the Western Prison and Copenhagen Police Headquarters Prison, usually in the context of an altercation between an inmate and a prison officer, and one foreign national alleged that he had been punched by a prison officer on the left side of the chest at Western Prison, the day prior to the delegation’s visit, for not taking off his clothes when requested.

**The CPT recommends that prison officers at Western Prison and Copenhagen Police Headquarters Prison be reminded that no more force than is strictly necessary should be used to control prisoners and that there can be no justification for striking a prisoner after he or she has been brought under control or for physically assaulting a prisoner who refuses to obey an order.**

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<sup>11</sup> Copenhagen Police Headquarters Prison, Western Prison and Blegdamsvejen Prison together make up the Copenhagen Prisons and fall under the same Director. Ellebaek Establishment for Asylum-seekers and Others Deprived of their Liberty also comes under the Director of the Copenhagen Prisons.

28. Tackling *inter-prisoner violence and intimidation* has been a priority of the Danish Prison and Probation Service for many years and the CPT has commented on this question in previous visit reports.<sup>12</sup> The most notable measure taken was the establishment of special units for “negatively strong” inmates, as a response to organised groups of criminals seen to be exerting a highly negative influence on other prisoners, as well as units for prisoners seeking protection from other inmates (vulnerable prisoners) and high-security units for dangerous/disruptive prisoners. At the time of the visit, there were some 380 “negatively strong” prisoners. Nevertheless, it was acknowledged that not all gang members or “negatively strong” inmates were accommodated in small units.

In the course of the 2014 visit, the delegation noted that inter-prisoner violence and intimidation was not a problem in the remand prisons visited or at Copenhagen Police Headquarters Prison. Further, at Western Prison, staff generally intervened effectively whenever problems arose, although the case of one prisoner who alleged he had been roughed up and threatened by other prisoners in the exercise yard the day prior to the delegation’s visit had not been picked up by staff.

29. The CPT’s delegation did however have reason to be concerned about inter-prisoner violence and intimidation at Ringe State Prison. Several serious assaults by prisoners on other prisoners had taken place in recent times; health-care staff reported that there were fights most weeks and that they were sure that not all injuries were being picked up. Some of the more prominent incidents included:

- a prisoner had boiling water thrown over his head while asleep in his room. He required hospital treatment and sustained 1<sup>st</sup> and 2<sup>nd</sup> degree burns to his face, according to hospital records;
- a prisoner assaulted by other inmates required hospital admission after sustaining a left-sided orbital fracture (confirmed by the hospital discharge letter) and a broken nose.
- a prisoner was assaulted by other inmates and had an electrical current passed through him, resulting in him losing consciousness. He was apparently subsequently bound, hooded and threatened with sexual assault. The prisoner in question had suffered a previous attack four days earlier;
- a prisoner received multiple kicks and slaps from two other inmates during an assault. Medical records showed bruising and marks on his shoulders, the back of the neck and his skull, and there was a sustained laceration on his scalp;
- one prisoner sustained a head trauma during an attack, and a subsequent MRI scan showed diffuse axonal injury with a significant effect on communication and mobility. A medical prognosis stated that he may not regain his previous level of functioning;
- a prisoner was assaulted by three other inmates who entered her room while she was lying on her bed, placed a pillow over her head and one of them forcibly inserted her hand into the vagina of the prisoner to search for drugs.

In the course of the delegation’s visit, a number of inmates from different sections told the delegation that they did not feel safe. Moreover, prisoners considered that staff were playing too passive a role in asserting their authority and in ensuring that bullying and inter-prisoner violence did not occur. This was particularly the case in the male accommodation Wings 1, 3, and 4 of the prison. Some prisoners also attempted to exploit racial (white/coloured) and religious (Christian/Muslim) differences between Danish prisoners as well as with foreign national prisoners.

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<sup>12</sup> See, inter alia, CPT/Inf (2008) 26, paragraph 29 and CPT/Inf (2002) 18, paragraphs 32 to 35.

30. The CPT recognises the challenge of striking a balance between prisoners' privacy and their supervision, and between prisoner choice and regime restrictions. Nevertheless, the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. While the concept of "normalcy" advocated at Ringe Prison allows prisoners a great deal of autonomy in their lives, its application cannot come at the expense of the safety of inmates. The changing profile of the inmate population, including the acceptance into the establishment of certain gang members, means that the prison management has to adapt its approach accordingly.

Addressing inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. Such skills are all the more important in the context of a prison population with more than 50% of foreign nationals. Both initial and ongoing training programmes for staff of all grades must address the issue of managing inter-prisoner violence. It was clear to the CPT's delegation that a more proactive approach by prison staff needed to be adopted at Ringe State Prison to crack down on bullying and to build up the confidence of inmates in the staff's commitment to act to eradicate all forms of intimidation. By letter of 4 June 2014, the Danish authorities informed the CPT that action was being undertaken at Ringe Prison to reduce the number of incidents of violence and bullying through a better management of the movement of inmates around the establishment and a zero-tolerance stance towards inmates behaving violently. This represents a step in the right direction.

**The CPT nevertheless recommends that further steps be taken to put into place a comprehensive anti-bullying strategy to reduce the incidence of inter-prisoner violence and intimidation at Ringe State Prison, taking into consideration the above remarks.**

31. At Ringe State Prison, male and female prisoners interact and Wing 5 accommodated both men and women prisoners. In the course of the visit, the delegation received detailed allegations from both male and female prisoners, who were or had been accommodated in Wing 5, that women prisoners were vulnerable to being exploited such as having to provide sexual favours to male prisoners in order to obtain drugs. The prison management had been aware of some exhibitionism in the past and had erected hedges in yards separating the wings to prevent prisoners from one wing seeing prisoners in an adjacent wing. However, they did not consider that sexual exploitation was an ongoing problem.

Permitting male and female prisoners to share an accommodation unit represents the goal of the "normalcy" concept in promoting conditions of living that approximate as far as possible those in the community, with prisoners taking responsibility for their own lives. This is a laudable approach and Ringe State Prison is applying this concept in an admirable manner. Nevertheless, there is a necessity to re-evaluate the allocation procedures for assigning both male and female prisoners to Wing 5 and to put in place a more rigorous supervision of relations between the inmates on this wing. At times, it may be necessary to conclude that there are no female inmates who meet the criteria for being placed in this wing. In addition, the prison management must be attentive to sexual exploitation in other areas of the prison where male and female prisoners come into contact.

**The CPT recommends that the Danish authorities take proactive measures to prevent sexual exploitation of prisoners at Ringe Prison, notably as concerns those prisoners allocated to the mixed male and female wing.**

32. More generally, the CPT considers that the Danish authorities need to put in place a more rigorous reporting system of all incidents of inter-prisoner violence as at present it would appear that prison officers and health-care staff are not noting down all occurrences. Consequently, there is also a lack of action to identify and address acts of violence, intimidation and bullying. It also means that the statistics on inter-prisoner violence produced by the Department of Prisons and Probation are most likely not an accurate reflection of the situation in prisons.<sup>13</sup>

**The CPT recommends that a more rigorous approach towards combating inter-prisoner violence in prisons be put in place, which should include a systematic recording and reporting of all such incidents. Reference should also be made to an effective complaints system (see paragraph 73 below).**

### **3. Prisoners subject to special regimes**

33. The issue of solitary confinement of remand prisoners by court order in the interest of the investigation has been an integral part of the ongoing dialogue between the CPT and the Danish authorities. In the report on the 2008 visit, the CPT took stock of the amendments introduced to the Administration of Justice Act and their impact in reducing recourse to this measure.

According to information provided by the Danish authorities, there has been a downward trend in the total number of solitary confinements of remand prisoners since the 2008 visit (from 273 in 2008 to 132 in 2012<sup>14</sup> and a significant decrease to 57 in 2013). The average duration of such measures has also continued to diminish; in 2013, eight persons were held for longer than 28 days and no persons were held for more than eight weeks. Further, the delegation noted the efforts being made at Western Prison to diversify the restrictive regime applied to these prisoners by providing them with increased staff contact, access to individual tuition and other activities (e.g. gym, library, work in the cell).

**The CPT welcomes the continued progress made by the Danish authorities and recommends that they pursue their 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 and last no longer than is absolutely necessary. Further, the Committee recommends that the authorities pursue their efforts to counteract the negative effects of remand prisoners placed in judicially-imposed solitary confinement.**

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<sup>13</sup> The 2012 statistics show a progressive decrease in incidents of inter-prisoner violence from 353 in 2010 to 295 in 2012.

<sup>14</sup> Apart from a spike in 2009, when there were 327 cases of court-ordered solitary confinement.



34. In previous visit reports, the CPT expressed strong reservations about the practice of judicial restrictions on remand prisoners' contacts with the outside world (notably as concerns supervised visits, withholding or monitoring of correspondence, and prohibition of telephone calls). The Committee made several recommendations designed to ensure that the adoption of such measures, known as "B&B" (*Brev og Besøgs forbud*), is strictly proportionate to the needs of the criminal investigation.<sup>15</sup> In their response to the 2008 visit report, the Danish authorities lay out the legal provisions in the Administration of Justice Act governing such restrictions and state that, in practice, the decision whether or not to impose restrictions on 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. The response concludes that "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 the possibility for court review, in relation to remand prisoners' rights to receive visits and to send and receive letters."

The delegation which carried out the visit in 2014 noted once again the high proportion of remand prisoners with "B&B" restrictions. The restrictions could be applied throughout the remand period, including during any appeal and while awaiting sentence confirmation, which effectively meant that they could continue for many months and up to a year or more. Many remand prisoners subject to "B&B" claimed that once the restrictions were imposed there was no point in challenging them before the court because they were always upheld. A 17 year-old remand prisoner who had been in detention for more than two months and was scheduled to be sentenced three weeks later, in early March 2014, claimed that the judge upheld the "B&B" measure on the grounds that the police stated there was a risk he would threaten witnesses. Contact with his family was severely restricted as he was prohibited from making phone calls and his mother had only been able to visit him twice in two months as she lived a considerable distance from the prison, both of these visits had taken place in the presence of a police officer. Given the principle that remand prisoners should only be subject to those restrictions which are necessary to secure the purpose of remand custody or the maintenance of order and security in the detention centre (see Section 770 of the Administration of Justice Act), certain restrictions such as no access to the telephone would appear to be disproportionate. The CPT is not convinced that the safeguards in place are sufficient.

35. The CPT considers that the use of judicial restrictions on remand prisoners' contacts with the outside world should be limited to the strict minimum necessary for investigation purposes and that there should be a more rigorous supervision of their application. Indeed, every effort should be made to promote contact with the outside world. Moreover, the longer the measure of "B&B" is imposed on a prisoner in remand custody, the more rigorous should be the tests as to whether such a measure remains necessary and proportionate.

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<sup>15</sup> See in particular the report on the 2008 visit : CPT/Inf (2008) 26, paragraphs 43 and 44.

**The CPT reiterates its recommendation that the Danish authorities reinforce the safeguards surrounding the application of judicial 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, telephone calls and letters be considered as a separate issue.**

36. The grounds for placement in the Police Headquarters Prison in Copenhagen remain the same as those described in the report on the 2008 visit.<sup>16</sup> All prisoners were accommodated in single-occupancy cells (8m<sup>2</sup>), which were equipped with a bed, desk, chair, wardrobe, fridge and television. The material conditions were satisfactory.

However, the regime remained restrictive. Prisoners were offered one hour of outdoor exercise every day in one of three rooftop enclosed yards, each equipped with a bench, a basketball ring and some cover against inclement weather. They could also access a small gym with exercise bicycles three times a week for one hour with one other prisoner. A teacher employed by the establishment provided tuition on a one-to-one basis for one hour per week, and there was a possibility for prisoners to associate for up to four hours a day in the cell with one other prisoner. However, at least seven of the inmates met by the delegation had not been granted such an opportunity as the management of the prison selected which prisoners were suitable to associate together. For those with no association time, human contact was extremely limited as they were confined to their cells for 22 to 23 hours a day and even when outside their cells they did not see, let alone interact, with other prisoners and contact with prison officers was minimal.

**The CPT recommends that greater efforts be made to ensure that all prisoners are offered the possibility to associate or to be involved in activities requiring human contact for several hours every day.**

37. As regards the placement policy, due to the insufficient number of prisoners falling within Category 1 (i.e. "negatively strong" prisoners), the establishment held a mix of prisoners in terms of legal status and security and regime needs; however, as was the case in 2008, they were all treated identically. For example, one prisoner stated that the reason he had been sent to the Police Headquarters Prison was due to a shortage of space at Western Prison and that he had been told he would be relocated back to this establishment as soon as possible. However, three weeks later he still did not know how long the "temporary" placement would last. It would not be acceptable for prisoners to be accommodated at Copenhagen Police Headquarters Prison merely to ensure that the establishment operates at more than 80% capacity. If the Danish Prison and Probation Service intends to accommodate prisoners at this facility who do not fulfil the requirements of a "negatively strong" prisoner, efforts should be made to provide a more meaningful regime for them. More generally, the CPT continues to believe that the placement criteria should be rendered more transparent.

**The CPT recommends that the Danish authorities review the situation at the Copenhagen Police Headquarters Prison, in the light of the above remarks.**

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<sup>16</sup> See CPT/Inf (2008) 26, paragraph 35.

38. The CPT's delegation paid a targeted visit to the high-security section A1 in Vridsløselille Prison, where it examined the situation of two prisoners who were in long-term administrative segregation. One of the prisoners had effectively spent nearly four and a half years in solitary confinement between May 2006 and December 2009 and from 22 December 2011 to 17 July 2012,<sup>17</sup> primarily at East Jutland, Vridsløselille and Western Prisons.<sup>18</sup> In January 2014, this prisoner had been transferred from East Jutland Prison back to Vridsløselille Prison; at the time of the visit, he was offered one hour of outdoor exercise every day in a small yard under CCTV and the possibility to associate with another prisoner selected by the prison management for one hour every day; however, he declined both these opportunities. He also received no visits. Despite the lack of human contact, the prisoner was lively and engaging and senior staff at the prison believed that he would be in a position to be transferred onto a normal accommodation wing by the middle of the year.

Nevertheless, the CPT considers that placing a prisoner in administrative solitary confinement for such an extensive period cannot be conducive to his mental welfare or to the process of his preparation for reintegration into society, and that more rigorous safeguards surrounding such a measure should be in place.<sup>19</sup> In this respect, the delegation was concerned to learn that no psychological or psychiatric support was being offered or envisaged for the prisoner despite the assessments made by a clinical psychologist in October 2010 and February 2013 who had recommended extensive support to assist him towards being able to cope outside of prison.

**In the light of the above, the CPT recommends that the Danish authorities take the necessary measures to ensure that:**

- **any prisoner subject to prolonged solitary confinement:**
  - **has the right of appeal to an independent authority;**
  - **has a plan drawn up to address the reasons for the issues which require the prisoner to be kept in solitary confinement;**
  - **has a multi-disciplinary team to review the plan initially after one month and thereafter every three months, with the right to appeal any decision to prolong the solitary confinement;**
- **the longer the situation of solitary confinement continues, the more thorough the review should be and the more resources made available to attempt to (re)integrate the prisoner into the main prison community;**
- **the above-mentioned prisoner is provided with psychological and, if necessary, psychiatric counselling to assist him to associate with other prisoners and more importantly prepare him for reintegration into society;**

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<sup>17</sup> He had also been held in solitary confinement while on remand at Nyborg Prison from 6 July to 26 September 2005.

<sup>18</sup> He had escaped from prison on more than one occasion, including in a high-profile break out in 1995.

<sup>19</sup> See in particular paragraph 57c. of the substantive section on Solitary Confinement of Prisoners (paragraphs 53 to 64) in the 21<sup>st</sup> General Report on the CPT's activities of 10 November 2011.

39. Further, the CPT was informed about an incident at East Jutland Prison in January 2009 during which the above-mentioned prisoner alleged that he had been almost strangled by certain prison officers while restrained. As a consequence, he had been hospitalised, his injuries had been documented and a police investigation subsequently opened. However, the investigation had apparently been closed a year later as it had not been possible to identify which prison officers had been involved in the assault and a CCTV recording of the incident had apparently been deleted. The CPT considers that in the light of the medical evidence available and its consistency with the allegation of strangulation, together with knowledge of the prison staffing schedule and the prison officers responsible for monitoring the prisoner, it would have been possible to have carried out a more effective investigation to identify the perpetrators or those who were negligent in their duty to safeguard the prisoner's physical integrity.

**The CPT recommends that the Danish authorities carry out a full review of the police investigation into this case of alleged ill-treatment by prison officers at East Jutland Prison in 2009, and inform the Committee of the outcome accordingly.**

#### **4. Conditions of detention**

40. In the course of the 2014 visit, the CPT's delegation received numerous complaints from prisoners in all the remand prisons visited, but especially at Western Prison and the Police Headquarters Prison, that they often had to wait in excess of 10 minutes to access the toilet and at times as much as 30 minutes. The delays at night time could apparently be longer. Some inmates stated that as a consequence they had had to urinate in the sink, especially those on medication which required an increased liquid intake. It is incumbent upon the Prison and Probation Service to ensure that the establishment is adequately staffed in order to ensure that all prisoners are able to access the toilet in a timely manner.

**The CPT recommends that steps be taken to ensure that prisoners in all remand establishments, notably Western Prison and Police Headquarters Prison in Copenhagen have ready access to a proper toilet facility at any time of the day or night. It would be far preferable to install in-cell toilets in all prison establishments.**

##### **a. Aarhus and Odense Remand Prisons**

41. Aarhus Remand Prison had sixty cells spread over four floors. Each cell (8m<sup>2</sup>) was suitably equipped (bed, table, chair, wardrobe, television, fridge and a sink), and had good access to natural light and adequate ventilation. Double occupancy cells with two beds were slightly larger (some 10m<sup>2</sup>). In the basement of the building, several rooms were used for association purposes (a games room, a cards room, a fitness room and a leisure room) and there was also a library on the top floor next to the classroom. There were five small (each measuring approximately 25m<sup>2</sup>) and five large (each measuring approximately 40m<sup>2</sup>) outdoor exercise yards equipped with a table and bench, a basketball hoop and a barbeque grill, and a covered area to protect inmates from inclement weather. At the time of the visit, 38 prisoners were involved in an activity (cleaning, maintenance, workshop, education, cell work) with 11 prisoners classified as sick and 10 as not wanting any activity. Inmates were offered one hour of outdoor exercise every day and could sign up to spend one hour with up to three other prisoners in one of the association rooms in the basement. They were also permitted to associate with another prisoner in a cell for up to four hours a day.

The material conditions in Odense Remand Prison were of a similar standard and the range of activities comparable. There were five outdoor exercise yards of differing sizes, each with a covered area for inclement weather, and equipped with a table, bench, ping pong table and barbeque.

b. Ringe State Prison

42. The living conditions in the seven accommodation units could be considered as good. Six of the wings were of an identical layout adjacent to one another off a central corridor. Each wing consisted of an open plan communal kitchen (knives were attached to the wall with wire) and living area with sofa and television, a games room (table football, video games, music system) and up to twelve single-occupancy rooms. The rooms (7m<sup>2</sup>) were furnished with a bed, table and chair, cupboards, a television, a fridge and a sink; access to natural light via a large window was good, and artificial lighting, ventilation and heating were sufficient. Rooms were open from 7 a.m. to 9.30 p.m. Each wing had an adjoining garden area which separated it from the next wing. Prisoners ordered their own food via an on-line store list with a local supermarket and were responsible for making breakfast and dinner for themselves.

The prison had a large recreational outdoor area for prisoners to access, particularly during the summer months, which included a football pitch, beach volleyball, hockey and basketball facilities and a rose garden. As to activities, at the time of the visit, 26 prisoners were engaged in one of the workshops (metal work, carpentry, assembly) and another five did cell work; 13 prisoners were occupied with cleaning, gardening, maintenance and painting work; nine prisoners attended day school and seven prisoners were undertaking other educational activities. The prison also offered a range of programmes to assist inmates such as anger management, dialogue against violence, debt rescheduling, and at the time of the visit nine prisoners were following a drug treatment course. Once the working day had ended at 3.15 p.m., prisoners could participate in various recreational and sports activities. However, despite the impressive range of activities, prisoners were not systematically offered one hour of outdoor exercise every day unless they were serving a disciplinary sanction of solitary confinement or were in voluntary isolation.

c. Western Prison

43. At the time of the 2014 visit, the conditions of detention at the Western Prison were essentially adequate and remained the same as those described in the report on the 2008 visit.<sup>20</sup> Nine cells were each accommodating two prisoners due to the overcrowding in the establishment. The CPT's delegation noted that some of the cells had damaged furniture or were missing curtains, and the management of the prison recognised the necessity for a rolling programme of upgrading the facilities; since the previous visit, new cell windows had been installed in several of the wings which provided improved access to natural lighting and better ventilation and the visiting facilities were in the process of being rebuilt.

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<sup>20</sup> See CPT/Inf (2008) 26, paragraphs 53 and 54.

Prisoners could engage in a range of activities; vocational training, education, sports, recreational and work, such as kitchen, maintenance, cleaning, in-cell assembly and various workshops. The facilities were in general good and the management encouraged prisoners to engage in activities, even though the average length of stay in the establishment was less than two months. The challenge facing the prison was to engage with the large number of foreign nationals who did not speak either Danish or English so that they could benefit from the activities on offer.

**The CPT recommends that every effort be made to avoid accommodating two prisoners in cells designed for single occupancy at Western Prison. Efforts should also be made to replace damaged furniture and missing curtains. Further, the CPT encourages the management of Western Prison to pursue their efforts to offer all prisoners access to purposeful activities during their time at the establishment.**

d. juveniles in prison

44. In the course of the visit, the CPT's delegation met a few juveniles on remand at Aarhus and Western Prisons and a sentenced juvenile at Ringe State Prison.

The only closed section for juveniles sentenced to imprisonment in the Danish prison system is currently Wing 6 of Ringe State Prison. At the time of the visit, there were three juveniles accommodated in the wing<sup>21</sup> and the management had decided to allocate two other young prisoners to the wing to provide greater opportunities for association, as the inmates on this wing did not associate with other prisoners in the establishment. The rules on the wing were different in that inmates could not be alone in another inmate's room and meals were taken together communally with at least one member of staff. All the juveniles and young adults were attending school and participating in some workshop activities as well as actively assisting in cooking and cleaning the wing and participating in sports activities every day. In general, the living conditions were very good, there was a range of purposeful activities and all the inmates felt safe. Poor or threatening behaviour was addressed through time outs in the inmate's room for up to three hours and extensive discussions between staff and the inmate concerned. The juveniles on the wing appreciated this approach although one of the older inmates found it demeaning. In sum, the pedagogical approach appeared to follow that applied in the secure juvenile institutions.

At Western Prison, the juvenile department consisted of nine cells on the third floor of the *Syd* wing, and was semi-partitioned from the rest of the floor. At the time of the visit, there were three 17-year-olds and the rest were young adults assigned to the wing by the prison management. The conditions in the cells were the same as in the rest of the prison. The prison has established a dedicated pavilion for the inmates on this unit to which an educator took them every morning where they ate a communal breakfast and participated in several activities (silverwork, cooking, sewing). There was also the possibility to attend school a few times a week and to undertake physical exercise. However, at the time of the visit, at least three of the inmates were confined to their cells for 23 hours a day, with one hour of outdoor exercise and the possibility to associate with one other young person for three hours a day in their cell.

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<sup>21</sup> Two of whom were absent at the time of the visit.

At Aarhus Remand Prison, there was one 17-year-old inmate who had been transferred from Køglen secure juvenile institution two months earlier upon his request following a conflict with an educator. The juvenile attended school four days a week for two hours, went to the library every Wednesday and was offered one hour of outdoor exercise every day; in addition, he could attend the recreation rooms in the basement with up to three other inmates and could associate with one other inmate every day for several hours. The inmate also met the chaplain twice a week. The staff were attentive to his requests and needs, although there was no special programme in place for juveniles. Nevertheless, the juvenile stated that he preferred to be in the remand prison than in a secure institution as he felt he had more autonomy and because he knew several of the other inmates.

45. One of the cardinal principles enshrined in the United Nations Convention on the Rights of the Child (CRC) and the Beijing Rules<sup>22</sup> is that juveniles should only be subjected to a measure of deprivation of liberty as a last resort and for the shortest possible period of time. The CPT subscribes to this principle and, more particularly, to that of the “best interests of the child” as formulated in Article 3 of the CRC.<sup>23</sup>

The CPT notes that the number of juveniles held in prison in Denmark was low<sup>24</sup> and that special attention was paid to their situation by the staff in those establishments where they were held. Nevertheless, for juveniles on remand there does not appear to be a clear rationale for placing them in a prison environment rather than a secure education home. It is true to say that juveniles met by the delegation in the course of the visit expressed a feeling of pride at having graduated to “prison” from what they perceived as the more controlling secure juvenile institutions. However, it is questionable how it could be considered in the “best interests of the child” for him or her to be placed in a remand prison such as Aarhus or Western Prison when more child-centred alternatives exist.

**The CPT recommends that the Danish authorities review the policy of placing juveniles remanded in custody pending trial in a prison establishment rather than a secure institution for juveniles. Further, all juveniles held in remand custody must be provided with a full programme of vocational, education, sports and recreational activities.**

46. As regards juveniles sentenced to a closed prison (i.e. Ringe State Prison), it is positive that the numbers are so low. However, one consequence is that young adults from among the rest of the prison’s population are brought into the unit to ensure that there are always four or five persons on the unit at any one time. Further, the unit forms an integral part of the rest of the prison even if the “juvenile” inmates do not mix with other inmates, after their transfer to this unit. If it is considered necessary to have a separate unit for sentenced juveniles, consideration might be given to locating that unit on the grounds of an open prison which was accommodating sentenced juveniles. In this way, a specialised centre focused around the needs of juveniles could be put in place which would also provide increased options for managing juveniles in the closed and open sections, including joint activities.

**The CPT would appreciate the observations of the Danish authorities on this matter.**

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<sup>22</sup> The official title is the United Nations Standard Minimum Rules for the Administration of Juvenile Justice adopted on 29 November 1985 by the United Nations General Assembly.

<sup>23</sup> See General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, paragraph 1) by the Committee on the Rights of the Child.

<sup>24</sup> In 2012, the daily average number of juveniles on remand was 2.9, down from 16.8 in 2009, while the daily average number of sentenced juveniles was 7.5 (the number varied between 6 in 2007 and 8.7 in 2010).

Further, given that many of the juveniles/young adults had already spent time in several institutions before prison, a major challenge lies in assisting them make the transition from prison (with its support and structure) to life in the community. **The Committee would like to be informed of the measures being taken to facilitate this process.**

## 5. Health-care services

### a. health-care staffing

47. The delegation noted that prisoners could generally have access to health-care services within a reasonable time and that staffing levels were mostly adequate in the establishments visited.

At Aarhus Remand Prison, a nurse was available Monday to Friday (8.45 a.m. to 4.15 p.m.) and a doctor visited once a week (seeing on average 10 patients), and was on-call during weekdays. Four hours of psychiatric provision per week had recently been introduced and seven hours of access to psychology. For a prison population of some 60 inmates, such staffing levels were sufficient.

At Odense Remand Prison, which is of a similar capacity, a nurse was available Monday to Friday and a doctor attended one half-day per week and was apparently on-call during working hours. However, records concerning one patient showed that the doctor had refused to attend the prison to see a prisoner despite advice from the emergency hospital department, stating that it could await his next visit (namely, 48 hours later). In the meantime, the prisoner had been transferred to a psychiatric unit before the doctor's visit. This case also highlights the need for a psychiatrist to attend the prison on a regular basis.

At Ringe State Prison, a nurse was present Monday to Friday (7 a.m. to 4 p.m., with one day until 10 p.m.) and a part-time nurse one day a week. A doctor visited once a week and was on-call at other times, with medical cover provided by the community service outside of working hours. A psychiatrist attended six hours every fortnight and a psychologist five hours a week (from 4 p.m. to 9 p.m.), and a dentist one day every two weeks.

The health-care service for the Copenhagen Prisons was based in Western Prison and consisted of a Head doctor (a cardiologist) and five full-time doctors. There was an on-site doctor present seven days a week from 8 a.m. to 4 p.m., after which there was an on-call rota until 8 a.m. the following morning. The majority of on-call queries were dealt with by telephone, including prescribing, but if necessary a doctor would be present at the establishment within 30 minutes. The nursing team comprised a Head nurse and 16 full-time nurses and three temporary nurses. There were also two physiotherapists, two bio analysts, six visiting specialists, and a dentist as well as three psychiatrists providing a total of five sessions a week.

**The CPT recommends that regular psychiatric input for Odense Remand Prison be sourced. Further, doctors' on-call should be reminded of their duty to attend the prison when circumstances so require.**



b. medical screening and confidentiality

48. The CPT is obliged to reiterate the importance of medical screening of newly-arrived prisoners, in particular in the interests of identifying special medical needs, preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries. Such screening should be carried out as soon as possible and no later than 24 hours after a prisoner's admission to the establishment.

49. At Western Prison, local procedures allowed for newly-admitted prisoners to be screened by a nurse within 72 hours of their arrival. A review of various medical files revealed that four prisoners who had arrived more than 72 hours prior to the delegation's visit still had no health-care entry in their records while those with an entry merely contained statements such as "physically fit" or "healthy" or "no substance abuse problems". One record stated that the prisoner did not understand English but that he "looked" healthy, without any further qualifying information to substantiate such an assessment. None of the records documented any physical examination or assessment of mental health. Moreover, there was no data to check how many prisoners were seen by the medical team following entry to the establishment with figures varying from 10% (the nursing team) to 80% (the doctor). The CPT's delegation also noted that certain prisoners admitted to Copenhagen Police Headquarters Prison had not been screened prior to their transfer to this establishment, where no screening was carried out.

Moreover, it should be noted that it was the responsibility of the prison officers admitting a prisoner to the establishment to identify if there was a health issue which needed to be raised with health-care staff for a more urgent assessment than having to wait up to 72 hours. Yet, no training was provided to these prison officers on how to identify medical issues.

On a positive note, a reception screening tool was being developed at the time of the visit, which hopefully will lay the basis for a more rigorous and comprehensive medical assessment of each prisoner entering Western Prison.

50. Newly-admitted prisoners were generally seen by a nurse within 24 hours at Aarhus Remand Prison and within 48 hours at Odense Remand Prison. However, prisoners admitted over the weekend were never assessed until Monday and, moreover, there was no formal screening process (tool) in place.

At Ringe State Prison, a nurse saw all new arrivals within 24 hours except for weekend admissions who were seen on the following Monday. There was no set screening tool in place.

51. The CPT has emphasised in the past the importance of all persons undergoing a comprehensive medical assessment upon their admission to prison (see also Rule 42.1 of the European Prison Rules). This is not the case at the moment in Danish prisons.

**The CPT recommends that the Danish authorities take steps to ensure that every newly-arrived prisoner be properly interviewed and physically examined by a medical doctor, or a fully qualified nurse reporting to a doctor, during the initial screening. Such screening should always take place within 24 hours of a person's admission to prison, and preferably on the day of arrival at the establishment. Further, each prison health-care service should have in place a screening tool to enable them to properly assess the health-care needs of each newly-admitted prisoner.**

52. The CPT has consistently pointed out that prison health care services can make a significant contribution to the prevention of ill-treatment of detained persons through, inter alia, the systematic recording of injuries, whether vis-à-vis new arrivals or following a violent episode in prison. In this respect, the health care services in the prisons visited generally recorded injuries observed in sufficient detail. However, in addition to a description of any injuries, the doctor should note down a full account of the statements made by the person concerned which are relevant to the medical examination. Further, the doctor should indicate as far as possible the consistency between any allegations made and the objective medical findings; this will enable the relevant authorities to properly assess the information set out in the record. Such an approach was not being followed in the prisons visited. Further, it is essential that all such reports are transmitted to the relevant authorities.

**The CPT recommends that the necessary instructions be issued to ensure that any relevant statements by newly-arrived prisoners or an inmate involved in a violent incident in prison are recorded by the health-care service, together with the doctor's observations. The existing procedures should be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is immediately and systematically brought to the attention of the supervisory authority, regardless of the wishes of the person concerned.**

53. As regards medical confidentiality, it appeared that medical examinations always took place out of the hearing and out of the sight of custodial staff at Ringe State Prison and at Aarhus and Odense Remand Prisons. However, at Western Prison, medical consultations took place in a prisoner's cell with the door left ajar and a prison officer stationed outside; thus, medical confidentiality was not guaranteed. Further, in order to see the health-care service a prisoner had to hand over a written application to a prison officer who passed it on to a nurse. Such a system lacks confidentiality and health-care staff raised concerns themselves regarding the potential for intimidation of prisoners by officers. The possibility of placing the application in a sealed envelope existed but was rarely used and prisoners appeared to be unaware of this option.

The delegation also observed that in all the establishments visited, prison officers distributed medication from dosage boxes prepared by nursing staff up to three times a day. An examination of the records revealed that there were multiple gaps in the drug charts (the record of which prisoner was provided with which medication and when). However, there was no process for recording missed medication doses or the reasons therefor and, on occasion, prisoners might not receive the correct medication. For example, at Western Prison, methadone had been administered to the wrong prisoner which resulted in the inmate having to be admitted to hospital for assessment. At the time of the visit, there was still no formal training in place regarding medication management for prison staff and no formal reporting system of incidents within the health-care service. Moreover, the medical records indicated that some inmates were concerned that other prisoners were aware of their prescriptions for sedative medication such as Fenemal.

**The CPT recommends that steps be taken to ensure that medical consultations at Western Prison take place in a location which guarantees medical confidentiality (i.e. that the medical examination is conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff). Further, the system of making an application to see a member of the health-care staff should be reviewed to ensure that it guarantees medical confidentiality. In particular, prisoners should not be obliged to openly state the reason why they wish to see a member of the health-care staff; they should be informed about the possibility to make an application using a sealed envelope. Further, medication should only be distributed by health-care staff.**

c. substance misuse

54. The CPT's delegation noted that a high number of prisoners in the establishments visited had a substance abuse problem. At Ringe State Prison, health-care staff estimated that up to 75% of inmates might have a substance abuse problem, primarily cannabis and benzodiazepines, which they were able to access illicitly within the prison. Inmates met by the delegation confirmed the availability of drugs, particularly cannabis, on the accommodation wings and its use and trade were linked to a number of the violent incidents referred to above (see paragraph 29). The prison applied a range of detoxification programmes and also had a separate substance misuse unit where prisoners were subjected to random testing as well as routine testing prior to and after a leave from the unit. Nevertheless, more needs to be done to address the problem of substance abuse within the prison. By letter of 4 June 2014, the Danish authorities informed the CPT of the elements of the strategy at Ringe Prison to control drug abuse both to keep drugs out of the prison as well as to respond to drug misuse in the establishment.

At Western Prison, a prisoner entering the establishment who is addicted to opiates may be prescribed methadone following a telephone consultation with the doctor on-call, with the prisoner usually being seen by the doctor the next day. If a person was on methadone prior to entering the prison, the local authorities responsible for the maintenance treatment would be contacted and the prisoner usually enrolled in a methadone maintenance programme within the prison. A review of a number of records showed that no physical observations or examination were recorded in the notes prior to prescribing medication. Further, it was found that there was no clinical follow-up recorded after the medication was prescribed, except in one case where the prisoner was recorded as having had significant side effects following the previous day's dose. At the other remand establishments visited, the delegation noted that there was also an inadequate follow-up process for persons prescribed treatment. In addition, substitution and detoxification programmes were not always accompanied by social and psychological support and educational training, although at Western Prison a local organisation was providing some psycho-social support.

**The CPT recommends that initial assessments of substance misuse should include a physical examination and that all prisoners prescribed detoxification treatment should be seen by a doctor and have a care plan drawn up. The CPT also recommends that more effective steps be taken to implement a three-pronged strategy in all prisons: to put an end to the supply of drugs, to reduce as far as possible the demand for drugs and to provide appropriate assistance to prisoners with drug-related problems.**

d. Prison Hospital at Western Prison

55. The prison hospital within Western Prison contained 36 beds and had a 90% occupancy rate, with prisoners throughout the prison system referred to the hospital if they were considered too unwell for accommodation on a normal prison wing. The level of care was good and the material conditions require no particular comments (see paragraph 47 above for staffing).

As regards activities, patients could access an exercise room for at least two sessions a week, and had access to the main sports hall and an outdoor exercise yard. Physiotherapists attended up to three times a week, as required, treating patients with mobility problems or post-hospital care.

## 6. Other issues

### a. reception and induction

56. In addition to medical screening on arrival, the reception and induction procedures as a whole have an important role to play; performed properly, they can identify at least certain of those at risk of self-harm and relieve some of the anxiety experienced by all newly-arrived prisoners. Regrettably, in the prisons visited there were no rigorous admission procedures whereby all new prisoners would undergo a risk assessment before being allocated to a cell and provided with toiletries, bedding and a hot meal. Nor was there any induction programme to acquaint prisoners with the regime and running of the prison, or to ensure that they had been able to contact their family. The Committee considers that such basic procedures on admission are vital in assisting inmates entering the criminal justice system to adjust to prison life.

At Western Prison, the brief reception procedures were focused on administrative and security matters such as checking luggage and clothes, including a requirement for every prisoner to strip naked. However, it appeared that no note was taken of visible injuries on a prisoner's body, such as police dog bite marks, nor of any vulnerability which might affect the ability of the person to cope with prison life.

Moreover, prisoners were not provided with any information on the regulations governing the day-to-day activities and procedures in the prison. Instead, they had to rely on other prisoners to tell them about the regime and the rules, which placed certain prisoners in a superior position. Indeed, a prison officer on the induction section on the lower two floors of *Syd* wing told the delegation "usually inmates learn things from other inmates. If they ask, we can also give them information". Further, for foreign national prisoners who did not speak English, the lack of information in a language they could understand placed them in a particularly vulnerable position, as members of the delegation observed in the course of the visit. For example, a foreign national prisoner explained to the delegation that it was only after two days that he found out there was a vial of washing up liquid available on the landings at certain times for inmates to take to wash their plates and cutlery, and that prior to this prison staff had reacted angrily to his attempts after meals to hand over his dirty plate.

57. The management at Western Prison acknowledged the need to put in place improved procedures to inform prisoners about the schedule and practices in the establishment and were looking into developing the information booklet (which was not distributed by staff) and perhaps putting together a pictogram brochure. Consideration might also be given to developing an information video which could be dubbed into the most common foreign languages and which prisoners could access either in their cells or in a common room after they had completed the reception procedures.

**The CPT recommends that the Danish authorities put in place a more comprehensive reception and induction process in all remand prisons which should include the provision of information in a language that the prisoner understands.**

b. prison staff

58. To obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training. The real professionalism of prison staff requires that they should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. In this regard, prison management should encourage staff to have a reasonable sense of trust and expectation that prisoners are willing to behave themselves properly. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

59. In general, staffing numbers in the prison establishments visited were good. For example, at Western Prison, where there were some 450 prisoners, there was an overall staffing complement of 698, of whom 449 were prison officers. The presence of male and female staff in all prisons can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention,<sup>25</sup> and the CPT's delegation noted favourably the practice of mixed-sex staffing in all the prisons visited; at Western Prison, 38% of prison officers were female.

However, with the increasing number of foreign national prisoners and Danish prisoners from ethnic minorities entering the prison system, there is a greater need to recruit staff from diverse backgrounds, preferably with a knowledge of foreign languages, to reflect better the prison population. **The CPT would appreciate the observations of the Danish authorities on this matter.**

60. The CPT considers it important to be able to offer all prison officers a programme of further training and refresher courses, such as those on mental health, psychology, suicide prevention, anti-bullying, cultural awareness, etc. In particular, an ongoing emphasis should be placed on developing inter-personal communication skills. With foreign nationals comprising up to 60% of the prison population in certain establishments (notably, Western Prison), it is essential that prison officers possess developed inter-personal communication skills as the CPT's delegation observed for itself how cultural and linguistic misunderstandings could rapidly deteriorate into conflictual behaviour and the application of the use of force.

In addition, a positive practice at Western Prison would be to appoint a dedicated foreign national prison officer, who could meet and provide advice to each new foreign national and serve as a point of reference. Further, concerted efforts should be made to provide foreign nationals with clear information on immigration procedures, through consultation meetings and information packs.<sup>26</sup>

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<sup>25</sup> See also Rule 85 of the European Prison Rules and the comments thereon.

<sup>26</sup> See also Recommendation CM/Rec (2012) 12 concerning foreign prisoners which was adopted by the Committee of Ministers of the Council of Europe on 10 October 2012.

**The CPT recommends that the Danish authorities take the necessary steps to enhance the ongoing training for prison officers, particularly as concerns inter-personal communication skills. Further, consideration should be given to providing the necessary support to foreign national prisoners in all establishments and the appointment of a dedicated foreign national prison officer at Western Prison, in the light of the above remarks.**

c. discipline

61. Danish legislation envisages three types of disciplinary sanctions: warning, fine and placement in a disciplinary cell. The last-mentioned sanction may only be imposed for the following offences: escape or failure to return from leave; smuggling, possession or use of alcohol or drugs; refusal to provide a urine sample; smuggling or possession of arms and other dangerous objects; violence or threats of violence against fellow inmates or staff; gross vandalism; other serious or frequently repeated offences.<sup>27</sup> Decisions regarding disciplinary sanctions may be appealed against to the Prisons and Probation Service. In case of placement in a disciplinary cell for more than 7 days, the decision may also be appealed against in court. The maximum length of placement in a disciplinary cell is four weeks.

In the Committee's view, a continuous period of up to 28 days of solitary confinement as a punishment is excessive. The Committee considers that the maximum period of solitary confinement as a punishment should be no more than 14 days for a given offence, and preferably lower.<sup>28</sup> Further, there should be a prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of that maximum period. Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.

As regards minors, the CPT has very strong reservations as concerns any form of solitary confinement of juveniles as this can compromise their physical and/or mental integrity. To this end, it considers that a juvenile should not be placed in solitary confinement for disciplinary purposes for more than three days.<sup>29</sup>

**The CPT recommends that the Law on the Enforcement of Sentences and other relevant regulations in relation to disciplinary matters be revised accordingly, taking into account the above remarks.**

62. As was the case in 2008, the delegation was satisfied that the disciplinary procedure offered adequate safeguards to prisoners (in particular, the right to be heard; the right to have access to a lawyer; the right to appeal against the sanction). Further, the records of disciplinary hearings in the establishments visited were scrupulously kept. Moreover, it was noted that the disciplinary punishment of solitary confinement never exceeded 14 days and was in most cases much lower.

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<sup>27</sup> See Sections 67 and 68 of the Law on the Enforcement of Sentences.

<sup>28</sup> See the 21<sup>st</sup> General Report on the CPT's activities – CPT/Inf (2011) 28, paragraph 56 (b).

<sup>29</sup> See the 18<sup>th</sup> General Report on the CPT's activities – CPT/Inf (2008) 25, paragraph 26.

d. security-related issues

63. As regards the use of force, an examination of the relevant documentation showed that in most instances prison officers only resorted to manual restraint (hand grips) to control an agitated prisoner and that where batons were deployed their use was proportionate. This picture was generally confirmed by interviews with prisoners.

As regards pepper spray, Executive Order 547 of 27 May 2011 on the Use of Force in Prisons provides for its use where there is a concrete situation of particular risk and the Director or other responsible officer authorises its distribution and deployment. Further, the Executive Order states that an inmate should be informed that pepper spray will be used if staff orders are not obeyed. Following its use the inmate should be offered relief and a report drawn up on its use, which is sent to the Department of Prisons and Probation.

In the cases examined by the CPT's delegation, it was always reported that the inmate was warned that pepper spray would be used if he did not comply with the officer's order and following its use the inmate was provided with the possibility to wash himself, and was usually seen by a member of the health-care staff. Further, its application did not appear to be excessive; for example, five times in the 13 months at Western Prison. However, in a few of the cases examined it appeared that the use of pepper spray was a result of poor communication. For example, at Aarhus Remand Prison a foreign national who was to be sent back to his country a few days later had just received his passport and when prison officials took it away from him he became agitated which resulted in him being taken to the observation cell. When he refused to take his clothes off, pepper spray was applied to his face (see also paragraph 64). None of the prison officers spoke the language of the inmate and it turned out the prisoner feared that his passport would be lost. In another case, pepper spray was applied through the hatch of the cell door at Copenhagen Police Prison Headquarters to calm a foreign national prisoner who was threatening to self-harm with a piece of plastic from the fridge.

In sum, clearly defined safeguards do regulate the use of pepper spray in Danish prisons. However, the CPT considers that pepper spray is a potentially dangerous substance and should not be used in confined spaces. In particular, it should never be considered legitimate to diffuse pepper-spray through the hatch of a cell door. Moreover, the Committee considers that its use could be further reduced through improved communication skills by prison officers.

**The CPT recommends that the Danish authorities review the use of pepper spray in the light of the above remarks.**

64. Executive Order No. 283 of 26 March 2012 issued by the Ministry of Justice lays out the rules governing segregation in observation cells, as required by Article 64 of the Law on Sentence Enforcement. The Order stipulates in Article 16 that a prisoner may be placed in an observation cell to prevent vandalism, for reasons of order and security or for "special observation". If segregation in an observation cell lasts for more than three days the Prison and Probation Service must be informed but otherwise Article 18 (2) states that it must be discontinued promptly when the conditions for such segregation are no longer present. Article 20 (2) of the Order provides that "If necessary in the individual case, the inmate's clothes may also be changed. If so, the inmate must be requested to change his clothes himself."



The CPT considers that the procedures for placement in an observation cell for reasons of order and security need to be clearly distinguished from those relating to prevention of suicide and self-harm. In the latter cases, a member of health care staff should always be involved in the placement decision. The same lack of distinction between good order and health care exists in relation to placement of a prisoner in a security cell (see paragraph 67 below).

**The CPT recommends that the Danish authorities take the necessary steps to clarify the legal regulations concerning the placement of prisoners in observation and security cells.**

65. In the course of the 2014 visit, the delegation had an opportunity to examine the placement of prisoners in an observation cell at Western Prison. In the period from 1 January 2013 to 5 February 2014, there had been 612 placements in observation cells at Western Prison of which 46 were to prevent vandalism, 235 for reasons of order and security and 331 for special observation. The vast majority were for periods under 24 hours; however, 36 were longer than 24 hours and 14 lasted for more than three days. One person spent 265 days in an observation cell to prevent vandalism and two others 128 and 228 days, respectively, for special observation.<sup>30</sup>

The observation cells examined by the delegation were equipped with a metal-frame bed attached to the floor, a mattress and a blanket. No activities were offered and each time a prisoner left the cell to go to the toilet, he or she was escorted by prison staff. Accommodation in such cells is clearly meant to be limited to short periods of time. **In this respect, the Committee would like to be informed of the safeguards surrounding placement in such a cell when it exceed days, and lasts for weeks and months on end. Further, it would like to receive information on the reasons why the three persons referred to above were placed in an observation cell for such prolonged periods, and what their daily regime was during this period. At the very least, the CPT recommends that all persons held in an observation cell longer than 24 hours are offered one hour of outdoor exercise.**

66. The CPT's delegation observed that prisoners placed in an observation cell often had all their clothes removed and were left in the cell wearing only their underwear. This is totally inappropriate. Prisoners spoken to by the delegation expressed their feelings of humiliation at having to remain in a cell in just their underpants while being under close observation by staff. Further, many prisoners, especially foreign nationals, did not understand why they had to remove their clothes when they were taken to an observation cell and, not infrequently, the process of removing a prisoner's clothes was a source of conflict and violence. In certain cases, it was also the precursor for the decision to remove a prisoner to a security cell, where he or she would be fixated.

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<sup>30</sup> These three persons were placed in an observation cell, respectively, on 16 May, 29 September and 21 June 2013.

In the CPT's view, only when there is an evident suicide risk or case of self-harm should an inmate have to remove his or her clothes and, in such cases, the inmate should be provided with rip-proof clothing and footwear. Moreover, the placement of a prisoner in an observation cell for the purpose of preventing suicide or self-harm and its continuation should only be made upon the authorisation of the medical doctor, when all other measures are inadequate; and the removal of clothes should follow an individual risk assessment, and be authorised by the doctor. Further, the doctor should attend prisoners placed in observation on a daily basis.

Where there is a need for a disruptive or violent prisoner to be rapidly transferred to an observation cell, the person concerned should only be kept in such a cell until such time as he/she has calmed down, whereupon he/she should be placed in an ordinary cell and, if appropriate, managed through the disciplinary process or the provisions regulating removal from association under Article 63 of the Law on Enforcement of Sentences. Further, the prisoner's clothing should not be removed unless this is found to be justified following an individual risk assessment.

**The CPT recommends that the Danish authorities review the use of observation cells both as regards prisoners at risk of suicide or self-harm and for prisoners who are disruptive or violent. Further, in those cases where the risk of self-injury warrants the removal of clothes, prisoners should be provided with rip-proof clothing and footwear.**

67. Article 66 (1) of the Law on Enforcement of Sentences provides that "an inmate may be confined in a security cell and be immobilised by force by the application of a body belt, wrist and ankle straps and mittens, if necessary, to avert imminent violence or overcome violent resistance, or to prevent suicide or self-mutilation." No confinement in a security cell and forced immobilisation may be effected if such a measure would be disproportionate in view of the purpose of the measure and the indignity and discomfort which might be caused by it. Moreover, any confinement in a security cell and forced immobilisation must be effected with as much consideration as circumstances permit. The Law also states that the institution shall promptly request a doctor to attend the inmate but the doctor does not need to attend if he or she "deems such attendance obviously unnecessary". **In the CPT's view, the doctor should always visit a fixated prisoner.**

All the prisons visited, with the exception of Ringe State Prison, possessed one or more security cells which were furnished with a bed bolted to the floor;<sup>31</sup> an inmate would be placed face down on the bed while his ankles were placed in leather bracelets, after which he would be rolled over onto his back with his arms alongside his body, and his ankles and wrists would be immobilised with leather bracelets and a broad leather strap would be placed across his chest to immobilise the torso. Whenever an inmate was immobilised in a security cell, a prison officer sat outside the room monitoring the inmate through a viewing panel and was required to note down his or her observations every 15 minutes. The delegation noted that the recording of all measures of fixation was carried out diligently.

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<sup>31</sup> At Aarhus Remand Prison, the security cell also possessed a television which had been installed at the recommendation of the Parliamentary Ombudsman.

68. The CPT continues to have several concerns in relation to the resort to the measure of fixation in prisons. At Western Prison, from 1 January 2013 to 6 February 2014, there had been 50 cases of prisoners placed in a security cell and fixated; in 31 cases, the reason provided was to overcome violent resistance. From the cases examined, the Committee is not convinced that the purpose of resort to fixation cannot at times be construed as a punishment. For example, a foreign national from Syria who was sent to Western Prison from Ellebæk, became agitated in the reception area and when told to remove his clothes for a strip search started shouting and apparently attempted to hit a prison officer. Consequently, he was escorted naked apart from a pair of underpants through the ground floor of *Syd* wing and across a courtyard to the security cell in the hospital wing; during the transfer the prisoner was compliant and did not attempt to struggle or make a noise. The moment of agitation had passed and yet instead of placing him in the security cell for observation, it was deemed necessary to fixate him for 2 hours and 45 minutes. In another case, a prisoner who had self-harmed by cutting himself was being transferred to an observation cell without the use of any hand grips by the escorting officers when he apparently began punching the air and speaking in Arabic. Three officers decided to restrain the prisoner, who resisted while being held down on the bed, and he was subsequently carried by four officers to the security cell where he was stripped of his clothes and fixated for 2 hours and 36 minutes.

69. In addition, the CPT is concerned by the length of time that certain prisoners may be fixated. Of the 50 cases referred to above, 20 were terminated within three hours and a further 10 within 10 hours; of the remaining 20 cases, seven were for periods greater than 24 hours. One prisoner was fixated on ten different occasions between 24 April and 27 September 2013 for a total of 216 hours; on six occasions the reason provided was “overcoming violent resistance”, with the longest period of fixation being 44 hours and 8 minutes. Such periods of fixation are totally disproportionate and unjustifiable.

70. As regards medical supervision, the delegation noted that a doctor is always informed whenever a prisoner is fixated. The practice at Western Prison was for nursing staff to wait up to 30 minutes before seeing the prisoner in order to allow him to calm down.<sup>32</sup> Thereafter, the nursing team will review a fixated prisoner three times a day and a doctor once a day. However, it was emphasised that health-care staff are not responsible for the decision either to fixate a prisoner or to end the measure.

In this respect, it is essential that every prisoner is provided with a debriefing after the end of the measure of fixation in order to ensure that he or she understands why the measure was imposed. Several prisoners spoken to by the CPT’s delegation stated clearly that they did not understand why they had been fixated.

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<sup>32</sup> Indeed the delegation noted from the individual records that the prisoner was usually calm after a short period of being fixated and yet the measure was continued for many hours, often resulting in the prisoner becoming agitated.

71. The CPT recognises that in certain jurisdictions of the Council of Europe, the authorities have deemed it necessary to provide for the possibility on rare occasions to resort to fixating inmates in a prison setting. To this end, the Committee has advocated a number of principles and minimum standards that should be taken into consideration whenever the measure of fixation is applied.<sup>33</sup> It has also taken careful note of the Danish authorities' response to the report on the 2008 visit in which they refer extensively to the statutory provisions in Section 66(1) of the Act on the Enforcement of Sentences, pointing out that the measure of immobilisation is subject to the principles of proportionality and considerateness.

However, the findings of the 2014 visit demonstrate that there is a need to review the current approach towards the resort to fixation in prison and put in place far stricter rules governing its application. In particular, the following issues should be reviewed:

- Regarding its appropriate use, fixation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain those risks; it should never be used as a punishment or to compensate for a shortage of trained staff.
- Any resort to fixation should always be either expressly ordered by a doctor or immediately brought to the attention of a doctor, and the doctor should in all cases visit the fixated prisoner.
- The duration of fixation should be for the shortest possible time (usually minutes rather than hours). The exceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment.
- Persons subject to fixation should receive full information on the reasons for the intervention.
- The management of any establishment which might use fixation should issue formal written guidelines, taking account of the above criteria, to all staff who may be involved.

Further, the person concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint.

The Committee recommends that the Danish authorities take the necessary steps to ensure that all the principles and minimum safeguards set out above are applied rigorously in all prison establishments resorting to the measure of fixation and, if necessary, amend the law accordingly.

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<sup>33</sup> See paragraph 71 of the report on the 2008 visit – CPT/Inf (2008) 26.

e. contact with the outside world

72. As was the case during previous visits, the CPT's delegation noted favourably the arrangements in place for sentenced prisoners to maintain contact with the outside world. At Ringe State Prison, weekly visits lasted three hours long and prisoners could also apply to receive overnight family visits and to go on weekend leave. The visiting facilities at Ringe State Prison were of a high standard and family friendly while those at Western Prison were in the process of being upgraded at the time of the visit. Access to the telephone and prisoner correspondence could be considered satisfactory.

Remand prisoners were offered one hour of visit every week and access to the telephone and correspondence was adequate. However, many persons on "B & B" judicial restrictions complained that they could not communicate in their own language when they had visits and that as they were not permitted telephone calls, they felt cut off from the outside world (see also paragraphs 33 and 34). In this context, the delegation met a number of prisoners at Western Prison who had relatives within the prison but who were not permitted to have contact with them due to the "B & B" regime being applied to them. Such a restriction would appear excessive, especially when they had no other close relatives in the country.

**The CPT would appreciate the observations of the Danish authorities on these matters.**

f. complaints and inspections

73. In the course of the visit, many prisoners stated that they did not have confidence in the complaints system as any written complaint had to be handed over to the prison officer on their landing with the subject matter of the complaint clearly visible. Further, several mentioned that they required more support in order to express themselves clearly due to their literacy challenges. Moreover, there still did not appear to be a structured approach towards complaints which could be usefully exploited by the prison authorities to assist in identifying issues to address at a general level.

The CPT considers that the existing internal complaints system needs to be further reviewed; for example, prisoners ought to be able to make written complaints at any moment and place them in a locked complaints box on a prison landing (forms should be freely available); all written complaints should be registered centrally within the prison before being allocated to a particular service for investigation or follow up. In all cases, the investigation should be carried out expeditiously (with any delays justified) and prisoners should be informed within clearly defined time periods of the action taken to address their concern or of the reasons for considering the complaint not justified. In addition, statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison. Of course, prison officers should be encouraged and empowered as far as possible to respond to requests and queries themselves and only where this is not possible should recourse to a written procedure be promoted.

**The CPT recommends that the Danish authorities review the prisoner complaints system in the light of the above remarks.**

74. The Parliamentary Ombudsman as the National Preventive Mechanism (NPM) under OPCAT (see paragraph 7 above) carried out regular visits to prisons in Denmark. It also received and dealt with prisoner complaints. After issuing individual reports on each institution visited in 2011 and 2012, the Parliamentary Ombudsman has now decided to produce only an annual report which brings together its findings for the previous year on the prison visits it has carried out. In parallel, it pursues a confidential dialogue on particular issues with the relevant prisons and the Prison and Probation Department, and other relevant government departments. Moreover, the Parliamentary Ombudsman intends to address certain thematic issues in the coming period such as psychiatric care and suicide prevention in prisons.

### C. Foreign nationals held under aliens legislation

75. The CPT's delegation carried out a targeted follow-up visit to the Ellebæk (formerly "Sandholm") Prison and Probation Establishment for Asylum-seekers and Others Deprived of their Liberty. A description of the establishment and of the categories of persons it held was included in the report on the CPT's 2008 visit.<sup>34</sup> At the time of the 2014 visit, Ellebæk was holding 87 asylum seekers of whom three were women and, in a separate section, 18 detainees (including one juvenile) awaiting deportation, for an official capacity of 136. The average stay in 2013 had been 29 days but one woman had been held in the centre for a year at the time of the visit.

At the outset, the CPT wishes to reiterate that asylum seekers should only be detained as a last resort, for the shortest possible duration, and after other, less coercive measures have proven insufficient to ensure the presence of the persons concerned.

76. The CPT's delegation received no allegations of physical ill-treatment or verbal abuse by prison officers.

77. At the time of the visit, one juvenile was being held in the establishment. The CPT wishes to recall its position that **every effort should be made to avoid resorting to the deprivation of liberty of an irregular migrant who is a minor**. Following the principle of the "best interests of the child", as formulated in Article 3 of the United Nations Convention on the Rights of the Child,<sup>35</sup> detention of children, including unaccompanied children, is rarely justified and, in the Committee's view, can certainly not be motivated solely by the absence of residence status.<sup>36</sup> When exceptionally a child is detained, the deprivation of liberty should be for the shortest possible period of time; every effort should be made to allow the immediate release of unaccompanied children from a detention facility and their placement in more appropriate care. Further, owing to the vulnerable nature of a child, additional safeguards should apply whenever a child is detained.

This approach has been confirmed by the European Court of Human Rights, which, on several occasions, has held that the administrative detention of children in an adult detention centre with a view to their deportation amounted to inhuman treatment.<sup>37</sup>

Taking into account the above principles, the CPT does not consider the Ellebæk establishment as a suitable location to hold children as it provides neither an appropriate environment nor does it offer the necessary support that a child requires.

**The CPT recommends that the Danish authorities put an end to the detention of children at Ellebæk, in the light of the above remarks.**

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<sup>34</sup> See CPT/Inf (2008) 6, paragraphs 81-97.

<sup>35</sup> See General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, paragraph 1) by the Committee on the Rights of the Child.

<sup>36</sup> See the 19<sup>th</sup> General Report on the CPT's activities: section concerning safeguards for irregular migrants deprived of their liberty (CPT/Inf (2009) 27, paragraph 97). See also Guideline 22 of the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted on 17 November 2010.

<sup>37</sup> See European Court of Human Rights, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, judgment of 12 October 2006; *Muskhadzhiyeva and Others v. Belgium*, judgment of 19 January 2010; and *Popov v. France*, judgment of 19 January 2012.

78. The material conditions in the establishment were generally adequate although somewhat basic and run down. Moreover, the environment was carceral, with barred gate partitions in the corridors separating one section from another, which is not appropriate for asylum seekers.

Many complaints were heard about the regular meals brought into the establishment, which did not meet the needs of the diverse detainee population. On the other hand, detainees very much appreciated the fact that they could cook their own food twice a week.

The regime in place had not changed since 2008, with detained persons able to spend the whole day out of their room on their unit. All persons were offered at least one hour of outdoor exercise in the internal courtyards, and a range of basic work, education and sports activities were offered, and an internet room with five terminals had recently been set up. However, detained persons complained that sports activities were frequently cancelled due to lack of staff, as was the case on the day of the visit.

**The CPT recommends that efforts be made to maintain the establishment in a decent state of repair and to limit the carceral environment to a minimum. Further, arrangements should be made to ensure that regular activities are not cancelled due to lack of staff. Consideration should also be given to extending the possibilities for detained persons to cook their own food.**

79. As regards health-care services, they were adequate from Monday to Friday between 8 a.m. and 4 p.m. when two nurses were on duty, and a general practitioner attended twice a week. Out-of-hours access to medical care was possible in emergencies but it was the responsibility of the prison officers to identify whether a detainee required medical attention. Detainees arriving at Ellebæk after 4 p.m. on a Friday would not see a nurse until Monday and the delay in any admission assessment could result in delays in treatment. For example, a detainee who arrived on 16 January 2014 was not seen by a doctor for two weeks and was only referred for an existing surgical problem on 4 February.

The delay in medical screening upon admission was compounded by the fact that the initial assessment was rather perfunctory and only included how to contact a nurse or an officer when there was an acute medical problem, and a discussion regarding medication prescribed prior to arrival in the establishment. No other health-care information was sought and no physical examination was carried out. Further, the initial screening was carried out in the reception area in the presence of custodial officers and escort staff.

The importance of medical screening of irregular migrants on admission to a detention centre cannot be overstated. Such screening is indispensable, in particular in the interests of identifying those at risk of self-harm, screening for communicable diseases and the timely recording of any injuries. Testing for blood-borne viruses should be carried out as required as part of the screening.



Moreover, at an establishment such as Ellebæk, it is indispensable that there ought to be specific screening in place aimed at identifying victims of torture (i.e. that medical doctors should be familiar with the Istanbul Protocol and know how to document allegations of torture). However, there was no specific recording or reporting system in place. The results of the survey carried out in May 2012 by *Amnesty International Denmark's Medical Group* would appear to confirm both the need for such screening to be put in place and that proper procedures should exist to manage vulnerable groups, including as to whether deprivation of liberty is appropriate.<sup>38</sup> In this connection, it goes without saying that persons with a severe mental illness should not be detained at Ellebæk.

**The CPT recommends that the Danish authorities ensure that every newly-arrived detainee is clinically assessed by a medical doctor or by a fully qualified nurse reporting to a doctor, as soon as possible after his/her admission to Ellebæk. Such health-care screening should be conducted in an appropriate and confidential setting.**

**Further, the CPT recommends that specific screening be put in place aimed at identifying victims of torture, with clear rules on the procedures to be undertaken whenever a medical practitioner reports on any detained person who may have been the victim of torture.**

80. As regards medical confidentiality issues during consultations and the delivery of medication, **the same observations made in relation to Western Prison apply to Ellebæk and should be addressed accordingly** (see paragraph 53 for the relevant recommendation).

81. The necessity to ensure clear and accurate communication within an immigration detention centre is essential. However, the CPT's delegation found that too little use was made of the possibility for telephone translation services or professional interpreters. Instead, when detainees were unable to understand a language spoken by custodial or health-care staff, other detainees of the same nationality or linguistic group would be asked to interpret. This obviously results in a lack of medical confidentiality and, potentially, a risk of misunderstandings, which could put the health of a detainee at risk. Detainees may have very legitimate reasons for not wanting another detained person to act as an interpreter for them with regards to such sensitive matters as health care or other matters linked to their personal situation. The medical records also showed that at times the health-care staff merely noted that they could not communicate with the detainee due to language difficulties.

**The CPT recommends that the Danish authorities make the necessary arrangements for interpretation services to be provided when required, taking into account the above remarks.**

82. Nearly all the detainees met by the CPT's delegation complained about a lack of information both in relation to the procedures affecting them from the moment they were arrested by the police as well as about the operation of the establishment in general. Further, several detainees complained that they did not get clear information from staff when they made a request and that some staff did not help them in trying to make a complaint.

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<sup>38</sup> See Amnesty International Denmark report: "*Frihedsberøvede Asylansøgere i Ellebæk -Traumatiseringsgrad og helbredstilstand blandt frihedsberøvede asylansøgere i Institutionen Ellebæk*" of February 2013. For an English summary, see pages 39-40 of the Joint NGO submission in connection with Denmark's mid-term reporting on the implementation of the 2011 United Nations Universal Periodic Review recommendations.

The ability for detainees to maintain contact with the outside world is essential and the telephone was considered the preferred means of communication. However, many detainees complained about the expense and the procedures surrounding the use of the pre-paid phone cards . In this respect, the CPT sees no reason why detainees should not be allowed to retain their mobile phones or be provided with a mobile phone without a camera should that be considered a concern, as occurs in several other European countries. This would facilitate contacts with family and friends, and be more in line with the ethos of an administrative detention centre where the emphasis should be on minimum internal security regulations and the promotion of normality. Another avenue to explore might be the use of modern technology in facilitating communication between the immigration detainees and their families (i.e. through Voice over Internet Protocol or Skype).

**The CPT recommends that the Danish authorities takes steps to improve the provision of information to irregular migrants from the outset of their detention and that they improve the possibilities for contact with the outside world such as permitting persons detained at Ellebæk to possess mobile phones, in the light of the above remarks.**

## **D. Secure institutions for juveniles**

### **1. Preliminary remarks**

83. There are eight secure institutions for juveniles in Denmark. Seven of them are managed by the regional authorities under the Consolidation Act on Social Services No. 254 of 20 March 2014 with a total capacity of 126 places.<sup>39</sup> The other one is managed by the municipality of Copenhagen. They accommodate both boys and girls from 12 to 17 years of age,<sup>40</sup> but the placement of juveniles below the age of criminal responsibility (15 years) is reportedly rare.<sup>41</sup>

Placement in a secure institution for juveniles may be ordered for the following reasons deriving from either criminal or social law provisions:

- A juvenile is remanded in custody for a severe offence<sup>42</sup> (“surrogate remand”), which represents the vast majority of placements;<sup>43</sup>
- a juvenile is sentenced to a regular prison sentence;<sup>44</sup>
- a juvenile is sentenced to a youth sentence;<sup>45</sup>
- a juvenile poses a danger to him/herself or others and the threat of harm is not preventable by less drastic measures;<sup>46</sup>
- observation in a secure ward is absolutely necessary to determine the appropriate future social-pedagogical treatment of a juvenile<sup>47</sup> (“social-pedagogical observation”);
- a long-term social-pedagogical treatment in a secure institution is absolutely necessary for a juvenile based on the aforementioned social-pedagogical observation period (“social-pedagogical treatment”);<sup>48</sup>
- a foreign juvenile under the age of 15 without a resident’s permit in Denmark is detained by the police on the basis of a detention order.<sup>49</sup>

The CPT considers that a secure institution for juveniles is not an appropriate place to accommodate foreign minors under the age of 15 for the sole reason of not having a resident’s permit. **The Committee recommends that the law be changed accordingly.**

The average period of placement of juveniles in secure institutions in 2012 was 55 days.

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<sup>39</sup> Figure for the end of 2012 received from the Ministry for Children, Equality, Integration and Social Affairs.

<sup>40</sup> Juveniles could under certain conditions remain in a secure institution beyond their 18<sup>th</sup> birthday.

<sup>41</sup> In 2012, nine juveniles aged under 15 were placed in secure institutions, for a maximum of 9 months.

<sup>42</sup> Section 765 of the Danish Administration of Justice Act. In less severe cases, juveniles are accommodated in open institutions.

<sup>43</sup> For example, 110 out of 119 placements at Sølager in 2012 were juveniles remanded in custody.

<sup>44</sup> Section 78, paragraph 2, of the Consolidation Act on Sentence Enforcement.

<sup>45</sup> Section 74a of the Danish Criminal Code.

<sup>46</sup> Section 30, paragraph 1, sub-paragraph 1, of Executive Order No. 419 of 29 April 2014 on the use of force against children and juveniles under care (hereinafter “Executive Order No. 419 on the use of force against juveniles”).

<sup>47</sup> Section 30, paragraph 1, sub-paragraph 1 of Executive Order No. 419 on the use of force against juveniles.

<sup>48</sup> Section 30, paragraph 1, sub-paragraph 3 of Executive Order No. 419 on the use of force against juveniles.

<sup>49</sup> Sections 35 -37 of Executive Order No. 419 on the use of force against juveniles and Section 36 of the Aliens Act.

84. In the course of the 2014 visit, the CPT's delegation visited for the first time Grenen and Sølager Secure Institutions for Juveniles.

The *Secure Institution for Juveniles Grenen*, located near the town of Grenaa in a rural area in the North East of Jutland, consists of three units (South, North and Kronen) with five places each. At the time of the visit, the establishment was holding 13 boys and two girls. The "South" unit accommodated juveniles who were diagnosed with or suspected of suffering from a psychiatric illness and is the only unit of its kind in the country. The majority of juveniles were being held in remand custody, with the remainder on preliminary socio-pedagogical observation or long-term pedagogic-psychological treatment.

The *Secure Institution for Juveniles Sølager* consists of two separate facilities both located in rural areas in the North of Zealand: one in Hundested and one in Skibby (40 km from Hundested), both comprising two units and accommodating at the time of the visit 11 boys each for an official total capacity of 22 places. The vast majority of juveniles were on "surrogate remand".

85. The CPT's delegation was informed by the Ministry for Children, Equality, Integration and Social Affairs that a Ministerial Committee led by the Director of the Parliamentary Ombudsman's office was created in 2013 and mandated to scrutinise the current legislation concerning the application of forceful measures on juveniles. The Committee is expected to publish its report by March 2015. **The CPT would like to be informed about the outcome of the work of the Committee.**

## 2. Ill-treatment

86. The delegation received no allegations of ill-treatment by staff in either of the two establishments visited. On the contrary, many juveniles met by the delegation spoke highly of the staff and the atmosphere in both institutions was positive.

Nevertheless, several juveniles who were or had previously been at *Grenen* Institution complained that staff could be too quick to sound the alarm following a verbal altercation which consequently resulted in force being applied to the juvenile. **The CPT would appreciate the comments of the Danish authorities on the application of the use of force at the Secure Institution for Juveniles Grenen.**

87. The delegation also heard about a case of alleged ill-treatment of a juvenile by a social educator at the Koglen Secure Institution for Juveniles in early December 2013, which was apparently the subject of a police investigation. By letter of 22 April 2014, the Danish authorities informed the CPT that the police investigation had been closed after no evidence of ill-treatment had been found. In a subsequent letter dated 13 May 2014, the Social and Psychiatric Services Administration of Mid-Jutland Region provided information on the findings of an internal investigation into the incident, notably that the boy had been particularly provocative towards staff during the evening and had subsequently attacked one member of staff. The adolescent was manually restrained by two staff members, and the force used was judged as being strictly necessary and proportionate.

### 3. Living conditions

88. Material conditions in the two institutions were of a high standard and offered a personalised environment: juveniles had their own rooms in small living units of 5 to 6 residents. All rooms in both institutions were of an adequate size (between 7 and 15 m<sup>2</sup>), appropriately furnished (bed, table, chair, wardrobe, television and DVD player) with sufficient access to natural light and ventilation. The rooms were also equipped with a call bell. The units had open-plan common kitchens and spacious, homelike, dining and living areas with sofas, television and games (table football, billiards and/or ping pong tables).

At *Sølager*, the rooms were equipped with a fully-partitioned sanitary annexe with a toilet, sink and shower, while at *Grenen*, each of the three units possessed two bathrooms for five juveniles. Juveniles at *Grenen* were provided with a flask to use should they need to urinate while they were confined to their rooms (from 2 to 3 p.m. and 11 p.m. to 7 a.m.). Some of the young persons interviewed did not know whether they were allowed to ask for access to the toilet at night or whether they had to use the flask. In the CPT's view, all juveniles should be provided with ready access to toilet facilities without undue delay, including at night, and should be informed about this right. **The CPT recommends that such an approach be rigorously applied.**

89. The pedagogical approach underpinning the regime at both institutions was to promote a sense of community and to be activity-focussed. The structure and most of the planning of each day was provided by the establishment, with the aim of relieving the burden of planning from the young persons and helping them to combat the "chaos" which most of them had experienced prior to their arrival at the institution. In group meetings, the juveniles were able to make suggestions for various activities and food.

The young persons at both institutions had to take part in a full day of structured activities: they attended school and/or workshops during weekday mornings, followed by one hour of rest time in their rooms and leisure or sports activities with other juveniles and/or staff every afternoon. In the evenings, juveniles participated in a communal meal and had to agree amongst themselves on a group activity. At *Grenen*, they also watched the news together. Rooms were locked at night at *Sølager* from 10.30 p.m. to 8 a.m. and at *Grenen* from 11 p.m. to 7 a.m. The young persons could move freely within their units, but had no access to other juveniles' rooms. At *Grenen*, juveniles were furthermore only allowed to talk to each other in the presence of a member of staff, and many juveniles complained about this particular restriction. While such a measure might be deemed necessary at the outset of a juvenile's stay at the institution, it should only be maintained based upon an individual risk assessment. At present, the measure appears to be disproportionate.

**The CPT recommends that the Danish authorities review the application of this restrictive measure at the Secure Institution for Juveniles Grenen.**

90. Primary and lower secondary school education in small groups was offered to those juveniles who had not completed their education. The classrooms had computers with internet access which could be used by the juveniles under supervision. However, none of the teachers was specialised in teaching juveniles with learning disabilities. **The CPT recommends that efforts be made by the Danish authorities to take the necessary steps to ensure that at least one teacher is qualified to teach juveniles with learning disabilities.**

91. In addition, the juveniles in both establishments had access to a number of well-equipped workshops and hobby rooms where they were taught different crafts and arts of their choice (e.g. metalwork, carpentry, textile printing, silversmithing, sewing and leather work, ceramics, photography, playing musical instruments).<sup>50</sup>

Juveniles (at all three locations) could furthermore use a variety of impressive indoor and outdoor sports facilities (e.g. a sports hall, well-equipped indoors gym(s), a football pitch). They had generally the possibility to exercise outdoors for at least one hour a day, often for longer or several times a day.

In their living units, the young persons could watch DVDs and play table-football, billiards and/or table-tennis and were involved in different aspects of daily household chores (notably cleaning, cooking and washing their own clothes). The young persons met by the delegation generally had a favourable opinion of the activities on offer.

#### **4. Health care**

92. Both establishments relied for medical (including dental) care on the regular community health service. The only exception was psychiatric treatment at *Grenen*, which was provided by a part-time child and adolescent psychiatrist, who visited the “South” unit every two weeks and the other units every four weeks (for six hours each). When in need of a medical consultation or treatment, the juveniles were usually brought to a hospital/surgery (by staff or by the police) or a doctor was called to the institution. The juvenile’s family doctor was contacted whenever possible. A few juveniles met by the delegation at both establishments complained about delayed access to a doctor. One juvenile at *Grenen* alleged that he had been denied access to a doctor following the use of force by staff.

**The CPT recommends that juveniles held at the Secure Institutions for Juveniles Sølager and Grenen be guaranteed prompt access to a doctor at any time. Further, the CPT would like to be informed whether there is always someone competent to provide first aid present at the establishments, including at night.**

93. As regards foreign national juveniles awaiting deportation, the delegation was informed that they only had the right to medical treatment if they had a life-threatening condition. However, at *Sølager*, the management of the institution would sometimes try to find the financial means to pay for the treatment, so that the juvenile would not have to suffer.

**The CPT recommends that foreign nationals held in Secure Institutions for Juveniles are provided with free health care and medication similar to that enjoyed by Danish juveniles.**

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<sup>50</sup> For example, at the Hundested facility of the Secure Institution for Juveniles Sølager, the creative and crafts activities offered included carpentry, metalwork, textile printing and a very well equipped photo/video/music workshop.

94. Whenever medication, including psychotropic substances, had to be distributed to a juvenile, it was administered by the regular staff of the institutions. At both institutions, all staff involved in the distribution of medication had passed a three-day training course on medication management and some of them had completed an additional two-day course. The delegation was assured that medication was always administered according to a prescription, never upon the decision of the regular staff.

The CPT considers that medicines should preferably be distributed by health-care staff, since the visibility of medication and its dosage by regular staff could compromise medical confidentiality. That said, the Committee acknowledges that the daily presence of health-care staff poses particular challenges for very small establishments, especially when they are located in rural areas, such as the ones visited. **The CPT trusts that only staff who have been appropriately trained are tasked with the distribution of medicine.**

95. The delegation was concerned that no medical screening upon admission of the juveniles took place in either of the establishments visited.<sup>51</sup> This is an issue that was already highlighted in the report on the 2008 visit.<sup>52</sup> Moreover, at *Grenen*, the delegation was informed that a juvenile, even if injured upon arrival at the institution, would only be medically examined if he or she asked for it.

In the CPT's view, all persons entering a place of deprivation of liberty should be medically assessed upon admission. Such screening is essential, particularly to identify special medical needs, to prevent suicides and the spread of transmissible diseases, and for recording injuries in good time. The systematic recording of injuries will make a significant contribution to the prevention of ill-treatment. This is all the more important when it concerns juveniles.

There is no reason why a proper medical assessment of a juvenile entering a secure juvenile institution cannot be carried out within 24 hours of their admission. Such an assessment could be performed by a medical doctor or a fully qualified nurse reporting to a doctor.

The response of the Danish regions of 16 May 2014 to the CPT's delegation's preliminary observations only refers to persons living in the community and not to juveniles deprived of their liberty, for whom the State has an increased responsibility.

**The Committee reiterates its recommendation that steps be taken to ensure that every newly-admitted juvenile be physically examined by a health-care professional within 24 hours of his or her admission.**

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<sup>51</sup> A "Child Protection Examination", including an evaluation of the child's/juvenile's health, is provided by the Social Services Act for certain juveniles committed to a secure facility for social reasons. The law provides for this examination "where it must be assumed that a child or young person is in need of special support, partly due to impaired physical or mental function". The examination generally takes place prior to the placement in the secure institution, not upon admission to the establishment. Such an examination is not intended for juveniles admitted for other than social reasons (including the vast majority of the juveniles who are placed in secure institutions for pre-trial "surrogate" custody/remand).

<sup>52</sup> See CPT/Inf (2008) 26, paragraph 110.

96. Juveniles at both institutions were offered screening for mental health problems;<sup>53</sup> at *Grenen* within the first two weeks and at *Sølager* within the first month of the placement. Both establishments employed psychologists for this purpose who also took a proactive approach in persuading juveniles to consent to the screening. Efforts were made to co-ordinate with outside psychologists or psychiatrists who might previously have seen the juvenile.

97. At *Grenen*, the delegation was informed that difficult behaviour in a juvenile was generally dealt with by behavioural approaches, rather than by medication.<sup>54</sup> Incidents of self-harm were responded to by a multi-disciplinary team, who analysed the process and behavioural pattern of the incident and developed an individual care plan, which frequently involved increased support and supervision of the juvenile. **Such an approach represents an example of good practice from which prison establishments might be able to learn.**

## 5. Other issues

### a. admission

98. The CPT attaches great importance to the existence of a proper admission procedure in every place of detention, which should be used by staff for engaging with the detained person to assess his/her specific needs. This is all the more important when it concerns juveniles.

At *Grenen*, juveniles were usually confined to their rooms immediately upon admission to the institution for up to a week or longer before being permitted to participate in any activities with the rest of the group. During this period, they were only allowed out of their room to go to the bathroom or to have a cigarette outside with staff, but were not offered any association or access to outdoor exercise. Moreover, it appeared that this period was not used for discussions or counselling with staff and that the juvenile was merely left alone in his/her room.

The response of the Danish regions of 16 May 2014 states that confinement of juveniles to their rooms upon admission was intended to be part of a stabilisation process and that the “necessary measures” for each juvenile were assessed on an individual basis. However, from the CPT’s findings, the measure appeared to be routinely applied, for too lengthy a period and with insufficient engagement by staff.

**The CPT recommends that - if needed at all - the period of confinement of a juvenile in his/her room upon admission should be based on individual assessment and reduced to the absolute minimum necessary. Furthermore, all young persons should be offered at least one hour of outdoor exercise every day and human contact and other activities during the application of the admission measure. The first days of a juvenile’s placement should be used by staff to engage with the young person so as to assess his/her specific needs and establish a trusting relationship. Further, the confinement of juveniles to their rooms should be properly recorded.**

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<sup>53</sup> Section 34 of Executive Order No. 419 on the use of force against juveniles.

<sup>54</sup> Benzodiazepines and sedatives were reportedly not used at all.



99. At both institutions, an information sheet on the day-to-day activities and procedures was distributed to juveniles upon admission. The delegation was pleased to hear that further foreign language versions were under preparation at *Sølager*. **The CPT would like to be informed of the various language versions currently available.**

b. staff

100. A positive aspect at both institutions was that the small living units were well-staffed. On each unit (at *Grenen* and *Sølager* alike), three staff members were in charge of five or six juveniles during day-time (and one member of staff during night-time once the juveniles were confined to their rooms). In addition, teachers and social workers instructed and supported the juveniles at school and in the workshops.<sup>55</sup> The large majority of staff were either social educators or had practical experience in social work (e.g. as street-workers) and reflected the commendable emphasis the institutions placed on education and rehabilitation rather than on control and security. Moreover, several staff members had a multi-cultural background, which largely facilitated communication with juveniles of non-Danish origin.

That said, at *Grenen*, the number of female members of staff employed was insufficient to ensure a permanent presence of female staff when young women were being held in the establishment, as was the case at the time of the delegation's visit.<sup>56</sup> In the CPT's view, the presence of male as well as female staff is not only important for carrying out gender-sensitive tasks, it can also have a beneficial effect for fostering a degree of normality in a place of detention.

**The CPT recommends that the presence of at least one female staff member should be guaranteed at the Secure Institution for Juveniles Grenen whenever female juveniles are being accommodated.**

c. security and use of force

101. According to Danish law, three types of "use of force" are authorised in secure institutions for juveniles if absolutely necessary and their use being proportionate: isolation, manual restraint ("hold and lead") and searches of the juvenile or his/her room.<sup>57</sup> The delegation was pleased to note that at both institutions, resort to force and disciplinary measures was not excessive.

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<sup>55</sup> *Sølager*, for instance, employed a total of five teachers, two social workers (*Socialrådgivere*), 40 social educators (*Socialpædagogisk personale*) and 40 other unit staff (*Døgninstitutionsmedhjælper*).

<sup>56</sup> The female staff members employed by the institution were two social workers, two unit staff members, the psychologist and the psychiatrist.

<sup>57</sup> See Section 123, paragraph 1, of the Social Services Act and Sections 20 to 27 of Executive Order no.18 on the use of force against juveniles.

102. Manual restraint and removal of a juvenile to another (usually his/her) room can be used to prevent him/her from harming him/herself or others or when the young person's behaviour makes it irresponsible to allow him/her to remain in the company of other juveniles.<sup>58</sup> Any form of mechanical restraint is explicitly forbidden.<sup>59</sup> The use of manual restraint at *Sølager* has been decreasing year on year from 41 cases in 2011 to 34 cases in 2012 and 20 cases in 2013. This downward trend is positive. However, at *Grenen*, the delegation received two allegations of pain-inducing means of restraint being applied to juveniles with their arms being twisted behind their backs. **The CPT would like to receive confirmation that all means of manual physical restraint applied to juveniles are safe and induce as little pain as possible.**

103. Searches of the juveniles' rooms may generally be carried out when they are considered "necessary to enforce regulations and observe security precautions", while body searches (limited by law to tapping over the juvenile's shirt and examination of pockets and shoes) are only authorised on the basis of a suspicion that the juvenile possesses banned items.<sup>60</sup> At *Sølager*, the number of searches had gone down between 2011 and 2013 from 59 to 41 and no complaints were received about the manner in which they were conducted.

However, at *Grenen* complaints were received concerning strip-searches carried out by police when juveniles were admitted to the institution. Juveniles met by the delegation explained that they had had to strip completely naked and bend over during the search which took place in the visits room of each unit. Such an approach is disrespectful and not in line with best practice. Strip searches should be conducted in such a way as to avoid the juveniles having to be completely naked (i.e. the juvenile should be able to continue wearing a top while the trousers are removed and searched and before taking off the top should be permitted to put on the trousers again).

**The CPT recommends that the Danish authorities ensure that resort to strip searches is based on an individual risk assessment and subject to rigorous criteria and supervision. Further, they should review the way in which juveniles are searched upon admission to the Secure Institution for Juveniles Grenen, in the light of the above remarks.** This is an issue which needs to be addressed by both the Ministry of Justice and the Ministry for Children, Equality, Integration and Social Affairs.

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<sup>58</sup> Section 2 of Executive Order No. 419 on the use of force against juveniles.

<sup>59</sup> Section 2, paragraph 2, of Executive Order No. 419 on the use of force against juveniles.

<sup>60</sup> Section 123a of the Social Services Act and Sections 21 to 27 of Executive Order No. 419 on the use of force against juveniles.

104. A juvenile can be placed in isolation in a specially designed room for up to four hours if there is an imminent danger that he/she would harm him/herself or others. If the juvenile suffers from a mental disorder, he/she must be seen and regularly visited by a psychiatric specialist during isolation.<sup>61</sup>

At *Sølager*, an isolation room had existed until some years previously, but the director of the institution did not recall it having been used during her 26 years of her service. It had meanwhile been taken out of service. This is positive.

At *Grenen*, each unit had an isolation room, but isolation was rarely used. Juveniles from the “South” unit could be placed in isolation for up to four hours and juveniles from the “Kronen” and “North” unit for up to two hours. During isolation, juveniles were under permanent video surveillance, the door was always kept ajar and staff viewed the juveniles through a door window every ten minutes. **The CPT would like to receive the breakdown of the figures of isolation (number of cases, length) for each of the three units of Grenen for the first half of 2014.**

105. At *Sølager*, a juvenile showing particularly disturbing behaviour could be separated from the other juveniles by being accommodated in a sectioned-off part of the living unit (so-called “shielding”/“skærmning”) as was the case for one young person during the delegation’s visit.<sup>62</sup> When a juvenile was accommodated in the “shielded” area, a staff member was permanently present, but the juvenile could not associate with other juveniles. The juvenile could have his personal belongings in the room and also stay in a small living area with a sofa and television. He/she was offered education within the sectioned-off area and daily access to the open air for at least one hour. According to the staff of the institution, “shielding” could be applied “as long as necessary” and usually lasted a few days to two weeks (ending gradually by increased association with the other residents).

**The Committee would like to be informed about the frequency and length of “shielding” at the Secure Institution for Juveniles Sølager for the period June 2012 to June 2014. Further, it wishes to be informed of the procedures and safeguards surrounding this measure.**

106. At both secure institutions, juveniles could be sent to their rooms and excluded from association with the rest of the group. No maximum duration for the confinement was stipulated.

At *Grenen*, the delegation was informed that the measure would usually last a few hours to a full day during which the juvenile was only allowed out of his/her room to go to the bathroom or to have a cigarette outside. The juvenile was not offered any association or access to outdoor exercise. Further, most of the juveniles interviewed at *Grenen* complained that confinement to one’s room was used disproportionately by staff. Several juveniles stated that they had been sent to their rooms because they had disagreed with a statement by a staff member and that the measure had only ended once they had expressed agreement with the member of staff. For example, juveniles claimed that they were sent to their rooms for refusing to eat a particular food or challenging a statement by an educator over a minor issue such as washing up a cup. **The CPT would like to receive the Danish authorities’ comments on the approach employed by staff at Grenen juvenile secure institution with regard to confinement to a room.**

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<sup>61</sup> Sections 20 and 39, paragraph 2, of Executive Order No. 419 on the use of force against juveniles.

<sup>62</sup> Reportedly because he had intimidated and attacked other juveniles in the institution.

107. Police officers were sometimes called to *Sølanger* for periods up to a few hours to assist in dealing with particularly agitated or violent young persons. The director of the Secure Institution *Sølager* explained that this was connected to the institution's emphasis on its social-educational rather than custodial role. By largely restricting the use of force to the police, the management aimed at limiting the use of force by staff and thus the overall use of force within the institution. She was convinced that significant use of force by staff would otherwise compromise the staff's pedagogical relationship with the juveniles.

The CPT has doubts over the practice of calling police officers into juvenile institutions to manage violent situations. The institutions' staff is in charge of maintaining order within the institution and should be able to control a violent outburst by one or more juveniles. Indeed, it appeared that staff at both institutions were in fact trained accordingly and did use force when necessary to prevent violent incidents. **The CPT would like to receive the Danish authorities' comments on this matter.**

108. Further, according to many juveniles and staff met at both institutions, juveniles were frequently handcuffed when transported by the police (e.g. when being brought to the institution, to court or to a dentist), in some cases behind their back. Moreover, staff at *Sølanger* complained to the delegation that the handcuffing was not based on an individual assessment. The CPT considers that handcuffing persons during transportation, and in particular when these are applied behind the back, is dangerous.

**The Committee recommends that handcuffs be only applied on individual grounds, based on the principle of proportionality and never on a routine basis.** This is an issue that needs to be addressed by both the Ministry of Justice and the Ministry for Children, Equality, Integration and Social Affairs.

d. contact with the outside world

109. At *Sølager*, juveniles were generally allowed to receive visits for eight hours per week and make several phone calls a day (of 5-10 minutes each). At *Grenen*, the young persons could receive visits for one and a half hours per week and could use the telephone 20 minutes per day (30 minutes at weekends).

However, the CPT is concerned that the majority of juveniles in the institutions visited, namely those in remand custody, remained for lengthy periods under judicial restrictions imposed by the prosecutor upon the explicit request from the police which impacted on their contacts with the outside world (see also paragraphs 34 and 35 above).

Such judicial restrictions could include the total prohibition of visits, the prohibition of visits from persons other than the juvenile's parents or the requirement for visits to be supervised by the police or, if permitted, by staff of the secure institution. Only visits by the juvenile's lawyer could not be monitored. Also, phone calls could be prohibited or supervised and the content of letters could be checked and withheld.

110. At *Sølager*, the delegation was informed by the management of the institution that juveniles on remand custody were as a rule at the beginning of their stay (for at least one month) placed under the highest restriction scheme (“red”). That meant that visits, phone calls and all other communications were supervised. If the police insisted in supervising a visit themselves (as opposed to supervision by staff of the institution), juveniles occasionally had to wait for up to ten days until a visit could be organised. Some juveniles also claimed that they were not allowed to receive visits at all or to use the telephone.

After the initial placement under the “red” restriction scheme, the contact restrictions were gradually lifted for many of the juveniles. Some of them, however, stayed under the “red” scheme for many months (eight months in one case). The delegation met one juvenile who had allegedly been on that scheme for about a year with all his communications, including visits, being supervised by the police.

111. The CPT recognises that restrictions on visits and other communications made by juveniles may be necessary in some cases, either for the purposes of the police investigation or for the protection of the juvenile concerned. However, in the Committee’s view, this measure should be used sparingly and for as short a period as possible. Restrictions on contact with the outside world should never be imposed systematically, but their necessity should always be assessed on a case-by-case basis. This is all the more important when it concerns juveniles and the necessity for them to maintain contact with the outside world.

**The CPT reiterates its recommendation that the application of limitations on detained juveniles’ contact with the outside world be reviewed. The imposition of such limitations should be the exception, not the rule.**

e. complaints and inspections

112. Juveniles at both institutions had a number of avenues of complaint as described in the CPT’s previous report.<sup>63</sup> Information on complaints procedures was provided in writing upon admission. The delegation was pleased to note that at *Grenen*, the information given (on complaints procedures and also on rules regarding use of force) was followed up within two weeks to ensure understanding and juveniles were asked to confirm in writing that the information had been explained.

However, at *Grenen*, not many juveniles used the complaints mechanisms, yet several of them indicated to the delegation that they had little or no trust in the existing procedures. In the CPT’s view, staff should foster the young persons’ confidence in the effectiveness of the complaints system. **The Committee would like to receive the Danish authorities comments on this matter.**

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<sup>63</sup> See CPT/Inf (2008) 26, paragraph 118.

113. As regards inspections, both institutions were visited at least once a year by a newly established Social Supervisory Authority, which consisted of five municipalities (one for each of the Danish regions) chosen to supervise the performance of facilities operating under the Social Services Act.<sup>64</sup> In addition, the regional authorities carried out periodic inspections and the Parliamentary Ombudsman and the Section 71 Committee of the Danish Parliament visited secure institutions for juveniles on a regular basis.

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<sup>64</sup> See Sections 2 and 7 of the Act on Social Supervision No. 608 of 12 June 2013.

## E. Psychiatric institutions

### 1. Preliminary remarks

114. The 2007 Law on the use of coercion in psychiatry (hereinafter Mental Health Act)<sup>65</sup> was amended in 2010. Further, an “Executive Order (no.1338) on the use of other coercion and deprivation of liberty on psychiatric wards” was adopted on 2 December 2010. Together, these legal provisions further regulate the use of coercion in psychiatry; that is all measures of an involuntary nature whether involuntary hospitalisation (involuntary admission or retention of a voluntary patient who requests discharge),<sup>66</sup> manual restraint and physical immobilisation (*fiksering*)<sup>67</sup>. The new legislative provisions also provide for the use of two special measures at the Secure Department Nykøbing Sjælland Psychiatric Hospital, namely “walking restraint” and the locking of patients in their rooms (see paragraphs 142 to 146).

115. In addition, in April 2012, the Danish Government established a Commission on Mental Health tasked with developing proposals for improving the treatment of psychiatric patients, including the reduction in the use of coercion in psychiatry. The Commission published its report<sup>68</sup> in October 2013 and the Danish Government adopted a four-year Action Plan<sup>69</sup> in May 2014. Amongst the Action Plan’s objectives are the reduction of immobilisation with belts by 50% before 2020, the introduction of coercion-free units and a “modernisation” of the Mental Health Act (a first draft to be presented in autumn 2014), which is in particular aimed at strengthening the rights of patients who are subjected to coercion. **In welcoming these proposals as a clear step in the right direction, the CPT trusts that the Danish authorities will invest the necessary resources in psychiatry to implement the plans to reduce the use of coercion.**

116. The delegation visited for the first time the Psychiatric Centre Amager in Copenhagen and the Mental Health Centre Sct. Hans in Roskilde and paid a follow-up visit to the Secure Department of Nykøbing Sjælland Psychiatric Hospital<sup>70</sup>.

117. *Psychiatric Centre Amager*, built in 2001, is located on the outskirts of Copenhagen and belongs to the large complex of Amager Hospital. It comprises two closed psychiatric wards located in a modern, purpose-built one-storey wing, each with a capacity of 14 beds. At the time of the visit, they were accommodating 27 forensic and civil patients. There was also a closed psycho-geriatric unit.

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<sup>65</sup> Consolidation Act no. 1729 of 2 December 2010.

<sup>66</sup> Sections 6 to 10 of the Mental Health Act.

<sup>67</sup> Patients were attached to their bed (or a bed in an isolation room) with an abdominal belt and often with additional straps to their wrists and/or ankles.

<sup>68</sup> Press release and [report](#) (in Danish).

<sup>69</sup> The Danish Government’s Action Plan (in Danish): <http://sum.dk>

<sup>70</sup> Visited by the CPT in 2002 and 2008.

118. *Mental Health Centre Sct. Hans* is located within a park near the centre of Roskilde in several historic buildings dating back to the turn of the 20<sup>th</sup> century. It has a total capacity of 180 places. The Forensic Department (“R”) consists of one open and eight closed wards (each comprising 9 to 12 beds) in different buildings and at the time of the visit it was accommodating 99 patients for an overall capacity of 104 places.<sup>71</sup> The great majority of patients in the Forensic Department had been sentenced by a court either to detention or psychiatric treatment. The Forensic Department planned to move to a modern purpose-built facility in the immediate vicinity of the present hospital buildings in 2018.

119. *Nykøbing Sjælland Psychiatric Hospital* is located outside the town of Nykøbing Sjælland in North-Western Zealand. The Secure Department (“*Sikringen*”) receives patients who are considered too dangerous to be placed in other closed forensic or civil wards in Denmark.<sup>72</sup> It consists of three units with 10 places each which were fully occupied at the time of the visit. There were also two additional closed forensic wards with 10 beds each outside the Secure Department. The entire hospital is expected to move to a newly built facility in Slagelse in 2015.

## 2. Ill-treatment

120. No allegations were received – and no other evidence was gathered – of deliberate physical ill-treatment of patients by staff at the three hospitals visited. On the contrary, the atmosphere at the hospitals was positive and the staff appeared to be dedicated and attentive. Nevertheless, at *Sct. Hans*, the delegation received a few complaints from patients that staff would occasionally overreact and that they resorted too quickly to physical force.

121. As regards the use of immobilisation in psychiatric hospitals, the CPT’s delegation noted a constructive attitude among its interlocutors, and an overall acknowledgement both by the central authorities and the staff in the hospitals visited of the need to reduce the resort to immobilisation (and coercion in general).

However, despite measures taken to tackle the frequent use and length of immobilisation in psychiatric hospitals, such as increased staff training and certain legislative amendments, there had been no reduction in the registered use of immobilisation in Denmark. On the contrary, the instances of immobilisation, and notably those of prolonged immobilisation (for more than 48 hours), has steadily increased and reached all-time peaks in 2012 and 2013 on a national level. The CPT therefore remains seriously concerned about the frequent and prolonged use of immobilisation in psychiatric hospitals.

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<sup>71</sup> Of the 104 places in the forensic department, 77 were in the closed wards and 27 in the open ward.

<sup>72</sup> All but one patient at *Sikringen* were diagnosed with schizophrenia.



For instance, at *Sct. Hans*, a patient had been immobilised five times for periods ranging from three to 38 days, for a total of 87 days and at *Amager*, one patient had been immobilised for 34 days. The CPT also received reports that psychiatric patients had been fixated to a bed for several months in different psychiatric hospitals pending their transfer to *Sikringen*. In one such case, a patient had been immobilised for more than 100 days at *Sct. Hans* (from 28 February to 11 June 2012).<sup>73</sup> Once at *Sikringen*, he had been restrained for a further one week upon his arrival and when the restraints were removed, he required training to walk properly again.

Moreover, at *Sct. Hans*, staff told the delegation that due to low staffing levels, patients could at times be immobilised when such a measure might have been avoided with higher staffing levels, and that for the same reason a patient who had been restrained for several months had not been released from the belts as often as his condition would have allowed. Clearly such a state of affairs is not acceptable.

In the CPT's view, the duration of the actual means of restraint should be for the shortest possible time (usually minutes to a few hours), and should always be terminated when the reason for the use of restraint has ceased. The maximum duration of the application of mechanical restraint should ordinarily not exceed 6 hours. As pointed out in the reports on the CPT's 2002 and 2008 visits to Denmark,<sup>74</sup> **the Committee considers that applying instruments of physical restraint to psychiatric patients for days on end cannot have any medical justification and amounts to ill-treatment.**

122. According to Section 15 of the Mental Health Act, immobilisation is as a rule to be decided by a doctor. Only in emergency situations could a patient be restrained to a bed with an abdominal belt upon the authorisation of a nurse while the doctor has to be called immediately. During immobilisation, one staff member has to be permanently located near the patient (while as far as possible respecting his/her privacy).<sup>75</sup> The need for continuation of the measure of immobilisation has to be medically assessed at least four times a day in evenly-spaced intervals by a doctor. A second doctor has to authorise the continuation of immobilisation beyond 48 hours; however, such authorisation is thereafter obligatory only once a week.<sup>76</sup> In the Committee's view, a restraint approval based on the patient's physical and mental condition is of little value if it is several days old.

Moreover, the documentation examined by the delegation showed that in the case of a patient who had been continually immobilised for a period of 34 days at *Amager*, authorisation in writing by a second doctor had only been provided twice during the whole period. Indeed, staff were of the opinion that only one such authorisation was required, even if the patient was restrained for more than a month. **Existing legal safeguards must be rigorously enforced.**

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<sup>73</sup> During that time he had been released 110 times for periods ranging from 10 minutes to one hour.

<sup>74</sup> CPT/Inf (2002) 18 paragraph 76 and CPT/Inf (2008) 26 paragraph 126.

<sup>75</sup> Section 21 of Executive Order no.1338 on the use of other coercion.

<sup>76</sup> Section 22, paragraphs 2 and 3 of Executive Order no.1338 on the use of other coercion.

123. The second doctor's authorisation was usually provided by a psychiatrist from a different ward within the same hospital. In case of disagreement between the treating and the second doctor as to the need for continuing the immobilisation, the law provides that the treating doctor's opinion prevailed.<sup>77</sup> In the Committee's view, such a disagreement is a serious matter and should automatically lead to a referral to a third authority for a decision. An independent scrutiny should not rely on the second doctor's or the patient's ability and willingness to appeal.

124. The release of an immobilised patient from belt restraint could be authorised by a nurse without consulting a doctor. This is positive, as it helps avoid the measure lasting longer than is absolutely necessary.

However, the legislative amendments do not explicitly stipulate that the application of immobilisation should stop as soon as the danger of harm has passed<sup>78</sup> and no maximum duration for immobilisation has been introduced. From the documentation examined, the delegation found that patients were frequently immobilised for 47 hours. The frequent termination of immobilisation just before the requirement for the second doctor's assessment may raise questions as to the genuine necessity of applying the measure for the whole 47 hours. Moreover, at *Amager*, staff told the delegation that the release of a patient from immobilisation depended inter alia on the situation on the ward, such as the presence of other particularly demanding patients, staffing levels and the female/male staff ratio on the shift. Such a state of affairs, if accurate, would not be acceptable.

**125. The CPT again calls upon the Danish authorities to review the legislation and practice of immobilising psychiatric patients and in particular to ensure that immobilisation with a belt:**

- **is only used as a last resort to prevent risk of harm to the patient or to others;**
- **is applied for the shortest possible time (usually minutes rather than hours) and is always terminated as soon as the danger of harm has passed; the maximum duration should ordinarily not exceed six and under no circumstances exceed 24 hours;**
- **is never applied or its application prolonged due to a shortage of staff;**
- **is subject to regular review by a second doctor in case of an exceptional prolongation of immobilisation beyond the six hours limit, and thereafter at reasonably frequent intervals; and that in cases of disagreement between the treating and the second doctor about the prolongation of immobilisation, the matter be automatically referred to an independent third authority for decision. The same procedure should apply if the use of mechanical restraint is repeated within 24 hours following the termination of a previous measure of restraint.**

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<sup>77</sup> Section 21, paragraph 5 of the Mental Health Act and Section 22, paragraph 7 of Executive Order no.1338 on the use of other coercion.

<sup>78</sup> It is only stipulated that, under the responsibility of the head doctor, "coercion may not be used to a greater extent than necessary to obtain the intended purpose" (Section 4, paragraph 4 and Section 21, paragraph 1 of the Mental Health Act).

126. All instances of immobilisation were recorded in the hospitals visited in a special protocol regardless of the length of their application and the measure was according to staff applied out of the sight of other patients. However, two patients at *Amager* and *Sct. Hans* met by the delegation stated that they had each witnessed another patient being restrained. **The CPT trusts that the Danish authorities will ensure that immobilisation does not take place in view of other patients.**

Further, patients at *Sct. Hans* and *Sikringen* were regularly offered a debriefing after having been subjected to immobilisation. At *Amager*, this was still not systematically the case, but the delegation was assured that a regular debriefing would be introduced in the near future. **The CPT would like to receive confirmation that this is the case now.**

127. The CPT was informed that the police were occasionally called to the closed wards at *Amager* and *Sct. Hans* to help staff in dealing with agitated patients. In their response of 21 May 2014 to the preliminary observations made by the CPT's delegation, the Ministry of Health explained that such interventions occurred at *Sct. Hans* on average every second month and at *Amager* every third month, and that police used force in these situations only once in two or three years. Nevertheless, **in the CPT's view, hospital staff should be sufficient in number and appropriately trained to handle violent situations without recourse to the police.**

128. In at least one case at *Sct. Hans*, a police intervention apparently involved the application of pepper spray inside a hospital ward. According to the medical documentation, police had dispersed pepper spray in a patient's face after he had succeeded in freeing himself from their grip and subsequently handcuffed him. The patient claimed that due to being handcuffed he had had difficulties to wash his eyes in order to relieve the symptoms of the spray and that he then suffered from sore eyes for several days. In the CPT's view, it is totally inappropriate for pepper spray to be used in a hospital setting. Its use could only be justifiable in a life-threatening situation.

**The CPT recommends that the Danish authorities take the necessary action to ensure that pepper spray is only ever authorised inside a hospital when there is a real risk of threat to life.**

### 3. Staff

129. The question of whether a hospital is able to provide treatment and care to its patients is to a large measure dependent upon it having a sufficient number of properly trained staff. It is regrettable that the situation as regards staffing levels in the hospitals visited had not improved since the CPT's 2008 visit.<sup>79</sup>

For instance, at *Amager*, only one nurse and three to four caregivers were present in the daytime at each of the closed wards which were accommodating some 14 patients. A similar situation was found at *Sct. Hans* where only one or two nurses, supported by two to three caregivers, were on duty during the day in wards accommodating 9 to 12 patients.

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<sup>79</sup> This was acknowledged by the Danish authorities as a country-wide problem; see also their response to the report on the CPT's 2008 visit, CPT/Inf (2009) 12, page 52.

The shortage of nursing staff was even more problematic at *Sikringen*, given that this high-security institution holds the most challenging psychiatric patients in Denmark. According to the information received, wards accommodating 10 patients were frequently staffed during the day (7 a.m. to 3 p.m.) by five to six nursing staff out of which usually only one or two were nurses. After 3 p.m. and during weekends, one nurse was on duty for all three wards until 11 p.m. usually assisted by three or four caregivers per ward (of which two were male).<sup>80</sup> In addition, one member of the security staff was permanently assigned to each ward.

130. As regards psychiatrists, the delegation was told about serious recruitment problems in each of the hospitals visited.

At the two closed wards at *Amager*, two psychiatrists and three other doctors were assigned to four and a half posts and another half a psychiatrist's post was vacant. *Sct. Hans* employed seven psychiatrists and three additional doctors for its nine forensic wards. One psychiatrist's post had been vacant for a year. At *Sikringen*, two psychiatrists (one of them working only 50%) were supported by the head of the hospital who worked for 10% of her time on the three secure wards and by a foreign psychiatrist who was hired on a part-time contract (33%), but was not yet fully operational due to his very basic knowledge of Danish. Half a psychiatrist's post was vacant at the time of the visit. During afternoon and night shifts and at weekends, a junior doctor was always present at the department.

131. As a consequence of the low staffing levels, the delegation observed that staff at all three hospitals were under constant time pressure, which resulted in a lack of outdoor exercise and activities offered to patients. For instance, staff at *Sct. Hans* told the delegation that sometimes, when one patient needed particular attention, e.g. because he/she was being restrained, the other patients on the ward were only infrequently taken to the outdoor yard. Moreover, at *Sikringen* and *Sct. Hans*, as staff themselves admitted, the low staffing levels could at times lead them to resort to the application of means of restraint, when such a measure might have been avoided with higher staffing levels.

132. Generally, the delegation received the impression that many shortcomings in the establishments visited were at least partly due to low staffing levels. According to the experience of the delegation's psychiatric members, staff numbers on comparable wards in other countries (such as the United Kingdom, Norway and Iceland) were significantly higher and the resort to restraint much lower than in Denmark. Moreover, the CPT is concerned that at none of the hospitals, including the two new construction projects at *Sct. Hans* and *Slagelse*, is a reinforcement of the current staffing levels envisaged.

**The CPT calls upon the Danish authorities to reinforce staffing levels in the psychiatric establishments visited, and notably the number of nurses. Further steps should be taken to fill the vacant psychiatrists' posts at all three establishments as a matter of urgency.**

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<sup>80</sup> At night, one nurse was on duty in all three wards, together with one (male) nursing staff on each ward.

133. *Sikringen* continued to employ 18 security guards from a private security firm, at least partly because of its long-standing difficulties in recruiting male health-care staff. The guards had undergone a four-week training course and wore civilian clothes. The Department's management was pleased with their presence on the wards. They were not involved in nursing tasks, but supported staff in daily chores such as serving food and waste disposal or playing board games with patients in the living rooms. **The CPT would like to know if the employment of security staff from a private company is further envisaged for the new Secure Department at Slagelse and, if so, to be informed about any safeguards or guidelines in place regulating such employment.**

134. Commendable efforts had been made to intensify staff training. Staff at all three hospitals received regular de-escalation training and periodically underwent courses in non pain-compliant manual restraint techniques. In addition, courses in cognitive behavioural therapy had been scheduled at *Sct. Hans* and *Amager*. Staff themselves were of the opinion that the training had enabled them to resort to restraint less frequently. This is positive.

At *Sikringen*, half of the staff had also attended communication skills training which had reportedly had led to an increased sense of professionalism in interacting with the patients and had contributed to a more relaxed atmosphere on the wards.

#### 4. Patients' living conditions

135. Material conditions in *Sct. Hans* and *Sikringen* were generally good, while at *Amager* they were exemplary: each room at *Amager* had a modern sanitary annexe with toilet, sink and shower and patients had free access to a small paved inner yard (mainly used for smoking). Wards at all three hospitals had spacious, light and well-equipped individual rooms and accommodated both male and female patients.<sup>81</sup> At *Sct. Hans* and at *Sikringen*, most of the patients only had access to common bathrooms. The CPT's delegation was pleased to learn that the shortage of bathrooms for patients currently staying at *Sikringen*<sup>82</sup> will be remedied at the new Secure Department in Slagelse where all rooms will include sanitary annexes. This will also put an end to the current practice of locked-up patients having to use a flask if they need to urinate at night.

The wards had nicely decorated common rooms and all three establishments possessed pleasant exercise yards. However, some of the yards at *Sct. Hans* did not provide shelter against inclement weather. The delegation was informed that the large inner yard at the new forensic facility will be partly sheltered. **In the meantime, efforts should be made to equip the outdoor exercise yards at Sct. Hans with a shelter from inclement weather pending the opening of the new forensic facility.**

136. On a positive note, the food in all the institutions visited was praised by patients.

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<sup>81</sup> Patients did not have access to other patients' rooms.

<sup>82</sup> Ten patients were sharing two toilets and one shower. See also CPT/Inf (2008) 26.

## 5. Treatment

137. All patients at the three establishments received treatment based on an individualised approach<sup>83</sup> and staff worked in multidisciplinary therapeutic teams. However, the shortage of staff (see section 3 above) had a detrimental impact on the overall quality of the treatment in the establishments visited.

138. Patients in all three hospitals could participate in some activities, including occupational therapy, but the overall range and frequency of activities on offer was rather limited.

At *Amager*, patients were mainly offered sports activities two to three times a week in a modern gym, and a cooking group as well as a social gathering (“café”) of patients from both closed wards took place once a week. However, in general, patients spent most of their time in forced idleness on their wards.

At *Sct. Hans*, several leisure facilities (greenhouse, workshops, library) had been closed down in recent years and a spacious modern sports hall was only infrequently used by patients from the closed wards due to a lack of staff to escort and accompany them. Patients and staff further stated that they rarely had the opportunity to spend time together within and outside the wards (e.g. for walks into town, to play board games or chat). The delegation was also told that too little social and practical training was offered to patients and that requests for discharge were often rejected by the courts due to the perceived lack of social abilities of the patients.

At *Sikringen*, the activities offered consisted mainly of volleyball and badminton, half an hour of physical exercise in the yard and a creative workshop (all once a week), spinning (twice a week), and regular visits from a music therapist.<sup>84</sup> Moreover, staff on the wards stated that there was very little time for them to talk to patients, to cook or to play games together.

The Committee considers that the treatment of psychiatric patients should involve a wide range of rehabilitative and recreational activities. Occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image. It is also desirable for patients to be offered education and suitable work.

**The CPT recommends that the Danish authorities take the necessary steps to provide all patients with a wide range of rehabilitative and recreational activities as part of their treatment plan.**

139. Access to outdoor exercise was also limited in all three establishments, mainly due to the lack of staff. For example, at *Amager*, the delegation met two patients who alleged that they had not been offered access to the outdoor exercise yard since their admissions 13 and 7 days earlier respectively.

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<sup>83</sup> At *Amager*, the management had in addition increased the involvement of patients by inviting them to staff meetings when their case was being discussed.

<sup>84</sup> A few patients also received education.

At *Sct. Hans*, the delegation was informed that almost all patients had to be accompanied when going to the outdoor yards (mostly in order to prevent them from receiving drugs through the fences), which placed a considerable burden on the already understaffed units. One patient alleged that she was granted outdoor exercise only twice a week and staff told the delegation that some patients who were repeatedly caught using cannabis were not granted outdoor exercise for several months. At one ward, staff told the delegation that patients were usually allowed outside three to four times per week in summer and once a week in winter.

At *Sikringen*, access to the fresh air was additionally hampered by the fact that there was only one yard available per ward of 10 patients while certain patients could not go outside at the same time as other patients due to their condition, thus rendering the yard inaccessible for other patients during that time period. In particular many of the locked-up patients at *Sikringen* (approximately 50% of all patients) were not offered one hour of outdoor exercise every day. Moreover, patients placed in an isolation room were generally not offered access to the open air at all during such a placement.

The restricted access to the yards at *Sikringen* was particularly regrettable for several patients who had been locked up in their rooms for months or even years and who had been tense and violent inside their rooms, but reportedly were calm when in the yard. It is a paradox that patients are confined to their rooms for years due to their behaviour which appears to vanish when they are allowed outside their room in the garden.

**The CPT recommends that the Danish authorities take the necessary steps to ensure that all patients are offered at least one hour of outdoor exercise every day.**

140. As regards medication, the CPT's delegation was impressed by a new database for monitoring the use of medication. The database stores information on medication administered to individual patients (drugs, doses, drug combinations, "PN" medication<sup>85</sup>), and also allows the hospital administrations and health authorities to obtain an immediate overview of the use of medication, by ward, by hospital, by region or by individual doctor. Alerts appear when overdoses or adverse drug combinations are administered or when other pre-defined unwanted events occur. Reportedly, the use of certain medication, high doses and polypharmacy had dropped significantly in those regions where the database was already in use.<sup>86</sup> This is a positive development.

141. Electro-convulsive therapy (ECT) could be applied against the patient's will if he/she was in an actual or potentially life-threatening situation<sup>87</sup> and was always applied in its modified form (i.e. with anaesthetics and muscle relaxants). According to the country-wide statistics, involuntary ECT was applied about 80 -100 times per year. The CPT considers that such frequency of involuntary treatment is high in a country which has in total 3000 beds in psychiatric hospitals. **The CPT would like to receive the Danish authorities' comments regarding the frequent application of involuntary ECT.**

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<sup>85</sup> "PN" stands for *per necessitatem*, Latin for "as needed", in this context: medication not taken regularly, but as required.

<sup>86</sup> For example, the registered use of neuroleptics had reportedly decreased by 20% and the number of patients taking olanzapine has gone down from 20% of patients to 5% since the introduction of the database.

<sup>87</sup> Section 8 of Executive Order no.1338 on the use of other coercion.

## 6. Special restraint measures at the Secure Department of Nykøbing Sjælland Psychiatric Hospital (Sikringen)

142. The 2010 amendments to the Mental Health Act legalised two specific coercive measures, namely “walking restraint”<sup>88</sup> and the locking of patients in their rooms<sup>89</sup> to be used exclusively at Sikringen.

143. “Walking-restraint” entails using a special belt to attach the patient’s wrists and ankles to a waist belt (and if necessary additionally the wrists to each other) by straps. This allows the patient to walk around and move his/her arms to a limited degree.

“Walking-restraint” may only be applied with the formal permission of the Danish Health and Medicine Agency (*Sundhedsstyrelsen*). Upon the request of a psychiatrist from the department, two additional external psychiatrists meet the patient and subsequently discuss the request with members of an Expert Board<sup>90</sup> of the Danish Health and Medicine Agency, who finally decides upon the request.<sup>91</sup> The permission for the application of “walking-restraint” is valid for six months, after which the application process has to start anew, with an additional, fourth, external psychiatrist involved.

144. At the time of the visit, “walking-restraint” was regularly being applied to four patients in the department. It was usually applied to those patients twice a day for 30-60 minutes and depending on their condition for personal hygiene (shower), outdoor walks<sup>92</sup> and/or socialising with other patients in the ward’s living room. While a patient was in “walking-restraint”, he/she was always accompanied by a specially assigned staff member (*fastvagt*). A psychiatrist visited each of the patients every day including on weekends and an external psychiatrist came once a week, in order to verify if the conditions for applying the special belt were still met and whether it should be continued.

All patients to whom “walking-restraint” was applied, had previously been locked almost permanently in their rooms<sup>93</sup> and/or restrained to their beds, for extended periods (weeks or months and a few patients had been locked in their rooms even for several years). They had not been able to socialise with other patients, to shower or to access the outdoor yard on a regular basis. Therefore, the patients themselves perceived the “walking-restraint” as an improvement to their previous situation.

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<sup>88</sup> Section 18c of the Mental Health Act.

<sup>89</sup> Section 18b of the Mental Health Act.

<sup>90</sup> The Expert Board consisted of a professor in psychiatry, two to three psychiatric specialists and one representative of a user organisation (SIND).

<sup>91</sup> At the time of the visit, all requests for application of “walking-restraint” had been approved by the Agency.

<sup>92</sup> One patient had even received permission for accompanied walks outside the closed yards on the hospital grounds.

<sup>93</sup> They were usually only released to go to the bathroom and the outdoor yard.



The delegation gained the overall impression that the three-year experiment of using walking belts had been handled well, with appropriate supervision and outside monitoring and as much respect for patients' dignity as possible. Nevertheless the utmost care should be taken to ensure that "walking-restraint" is exclusively applied to patients whose condition requires restraint and the measure should be ended as soon as it is no longer necessary. As with any other form of restraint, it should never be applied to compensate for shortages of trained staff. Moreover, in the CPT's view, "walking-restraint" should not be a substitution for more modern, professional and less restrictive methods to control violent behaviour.

**The CPT recommends that the Danish authorities take into consideration the above remarks with a view to reducing resort to mechanical restraint; such a reduction should not be achieved through an increased recourse to isolation measures.**

145. The locking of patients in their rooms was explicitly authorized by the new legislation for half an hour during the staff lunch break and for one and a half hours during the weekly staff meetings.<sup>94</sup> Moreover, on average some five patients were constantly locked-up on each ward (and only released to go to the bathroom or to the outdoor yard); some of them had been subject to such a regime for several years. Patients further told the delegation that newly arriving patients were frequently locked-up for days or even weeks on end. According to staff, the incidence of locking of patients in their rooms had increased (while immobilisation had been reduced).

146. The measure of locking a patient in his or her room is decided by a doctor.<sup>95</sup> However, the law does not provide for a regular review of that measure. The CPT's delegation was told by the management of *Sikringen* that every patient's condition and treatment, including the need for continued locking-up, was discussed every six weeks during the ward staff meetings.

The law further required that every locked-up patient had to be offered human contact for ten minutes every hour. Due to security considerations, between two and four staff members were needed to open a door to a locked-up patient's room, which meant that a large percentage of the staff on duty was required to carry out this task. Staff admitted that their tight routines in caring for the patients resembled a train timetable with precise timings for every task and that they were relieved that some of the locked-up patients regularly declined the offer for contact.

The CPT acknowledges the difficulties that *Sikringen* faces in dealing with its particularly challenging patient population. Nevertheless, the Committee is seriously concerned by the fact that often some 50 % of the patients remained more or less continuously locked in their rooms, apart from going to the bathroom and very limited access to the outdoor yard, throughout the day. Further, some patients have been subject to such a regime for months or even years. Locking-up of patients should be very cautiously applied, as a measure of last resort and applied for the shortest possible time; at *Sikringen* it is used excessively.

**The CPT recommends that the Danish authorities make every effort to radically reduce the resort to locking patients in their rooms for extensive periods of the day at the Secure Department of Nykøbing Sjælland Psychiatric Hospital. It should be applied to the absolute minimum necessary and always on an individual basis, and accompanied by appropriate safeguards, in particular through provision for a regular formal review. Locking of patients should never be resorted to due to lack of staff. The alternative to locking-up is clearly not an increased use of physical immobilisation.**

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<sup>94</sup> Section 18b of the Mental Health Act.

<sup>95</sup> Section 18a, paragraph 4 of the Mental Health Act.

## 7. Safeguards

147. The Danish legislation provides a series of formal safeguards (including for involuntary hospitalisation) which can be considered as largely adequate. This section will therefore focus on the areas which still require improvement.

148. The 2010 amendments to the Mental Health Act have strengthened the rights of patients in relation to involuntary measures (hospitalisation or treatment). The new law now considers a measure involuntary whenever the patient does not give his/her informed consent,<sup>96</sup> which is an advance on a patient having to “actively” or verbally oppose the measure as previously required. It is commendable that patients who might not be able to show their active or verbal opposition or who are fearful or easily suggestible, now also enjoy the safeguards accorded to involuntary measures.

149. Likewise, patients’ possibilities to appeal against a transformation from voluntary to involuntary hospitalisation have been further strengthened by the 2010 amendments. However, the CPT remains concerned that the retention of a voluntarily admitted patient can still be decided by only one doctor.

Further, a patient’s request for discharge has to be responded to by the head doctor only “as soon as possible and at least within 24 hours”.<sup>97</sup> In the CPT’s view, the rule should be that a voluntarily admitted patient is either able to leave the hospital immediately upon his/her request or, if the conditions for involuntary retention are met, the procedure for involuntary hospitalisation is initiated. **The CPT recommends that legislation and practice are brought in line with this approach.**

**The Committee further reiterates its recommendation that the retention of a voluntarily admitted patient requires an opinion from a second doctor who is independent of the department accommodating the patient.** The aim should be to align the safeguards offered in such cases with those of other involuntary patients.

150. Moreover, if the application of restraint to a voluntary patient is deemed necessary, the legal status of the patient as “voluntary” should be reviewed. This would secure the patient’s safeguards under Danish law. For instance at *Sct. Hans*, the delegation learned that immobilisation was at times applied to voluntary patients at the open department “M” (for voluntary patients with dual diagnosis).

**The CPT recommends that whenever restraint is applied to a voluntary patient, the legal status of that patient should be reviewed.**

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<sup>96</sup> Section 6, paragraph 2 and Section 12, paragraph 5 of the Mental Health Act.

<sup>97</sup> Section 10.3 of the Mental Health Act. If the request is filed within the first 24 hours of a voluntary admission, the head doctor shall announce the decision within 48 hours of the involuntary admission.

151. Patients could lodge complaints with the hospital management and a number of outside bodies, in particular the Patient Complaints Board and the Patient Appeals Board (as 2<sup>nd</sup> instance) as well as with the Parliamentary Ombudsman.

The examination of annual reports from the Patient Complaints Board<sup>98</sup> of Sjælland Region showed a number of hospital decisions on involuntary hospitalisations, forced medication and the use of restraint had been overruled by the Board.<sup>99</sup> However, it is unclear whether the overruled decisions have a wider impact on the way in which the hospitals concerned practice the application of coercion. **The CPT would like to be informed whether there are any wider policy implications emerging from the individual Board decisions.**

152. The CPT remains concerned that guardians (*bistandsværge*), appointed to assist forensic patients in the exercise of their rights, were in many cases the patients' family members who reportedly often lacked the necessary skills to advise the patient properly, in particular in filing complaints (e.g. against the use of coercion). Further, there may be a conflict of interest when a family member is appointed as a guardian. Only a few of the forensic patients had an additional patient advisor appointed to them.

**The CPT reiterates its recommendation to ensure that all forensic patients and patients subject to physical immobilisation benefit from the appointment of a representative with the necessary skills and duties to support him/her effectively in the exercise of his/her patient's rights in accordance with Danish law.**

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<sup>98</sup> The delegation was informed that the various regional Patient Complaints Boards had recently merged into one single Patient Complaints Board to ensure more homogeneous decision-making.

<sup>99</sup> For instance, of the board's 846 decisions (regarding 492 complainants) in the years 2010 to 2012, a total of 55 decisions on involuntary hospitalisation, 36 decisions on involuntary medication and 51 decisions on the use of restraint had been overruled.

**APPENDIX**

**LIST OF THE NATIONAL AUTHORITIES  
AND NON-GOVERNMENTAL ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

**Ministry of Children, Gender Equality, Integration and Social Affairs**

Jesper ZWISLER	Permanent Secretary of State
Dorte BECH VIZARD	Head of Office
Jørgen WITSØ-LUND	Chief Consultant
Charlotte AVNSTED	Legal Advisor and CPT Liaison Officer

**Ministry of Foreign Affairs**

Martin BANG	Head of Section, Human Rights Department, and CPT Liaison Officer
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**Ministry of Health**

Dorthe SØNDERGAARD	Deputy Permanent Secretary
Lise KIERKEGAARD	Chief Consultant
Louise FILT	Head of Section and CPT Liaison Officer

Vagn NIELSEN	Director, Danish Health and Medicine Authority
Anne Mette DONS	Head of Department of Supervision, Danish Health and Medicine Authority

**Ministry of Justice**

Kim LUNDING	Deputy Permanent Secretary of State
Frederik GAMMELTOFT	Head of Division
Anne Berg MANSFELD-GIESE	Head of Division
Thomas TORDAL-MORTENSEN	Deputy Head of Division
Ketilbjørn HERTZ	Consultant
Casper GRUE	Head of Section
Morten Chjeffer RASMUSSEN	Head of Section
Lisbeth Sandbjerg HANSEN	Head of Section and CPT Liaison Officer

Anders JØRGENSEN	Head of Legal Department, Danish National Police
Christina Fløystrup LILLIECREUTZ	Senior Advisor, Danish National Police

Johan Reimann	Director General, Danish Prison and Probation Service
Annette ESDORF	Deputy Director General, Danish Prison and Probation Service
Peter VESTERHEDEN	Governor of Copenhagen Prisons
Mohammad AHSAN	Deputy Director of Public Prosecutions
Eva Rønne NIELSEN	Assistant Deputy Director of Public Prosecutions

### **Independent Police Complaints Authority**

Kirsten DYRMAN	Director
Rasmus BLAABJERG	Head of Division

### **Office of the Parliamentary Ombudsman**

Morten ENGBERG	Head of Inspections Division
Bente MUNDT	Head of Children's Department
Erik Dorph SØRENSEN	Chief Legal Advisor

### **B. Non-governmental Organisations**

Amnesty International Denmark  
Citizens Commission on Human Rights Denmark  
Danish Institute for Human Rights  
Danish Refugee Council  
DIGNITY – Danish Institute against Torture  
Disabled Peoples' Organisations Denmark  
KRIM  
LAP  
Refugees Welcome  
SIND