

**Reply of the Danish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Denmark from 3 to 12 April 2019. [Danish reply in *italic*]**

**A. Police establishments**

**Paragraph 10 in CPT's report**

CPT's observation concerning paragraph 10:

- The CPT recommends that law enforcement officials be reminded, regularly and in an appropriate manner, that any form of ill-treatment, including verbal abuse and threatening behaviour, of persons deprived of their liberty is unacceptable and will be punished accordingly.
- Further, the CPT trusts that the Danish authorities will continue to remind police officers that they should use no more force than is strictly necessary when carrying out an apprehension and that where it is deemed necessary to handcuff a person, the handcuffs are never excessively tight and are applied only for as long as is strictly necessary.

*Police officers are employed as officials and must therefore comply with Section 10 of the Crown Servants Act, which states that civil servants must conscientiously 'comply with the rules governing his position, and both in and out of service be worthy of the respect and trust provided by the position'.*

*The Police Training program qualifies the future police officers to exercise the executive power in society in a professional ethical and responsible manner, in accordance with the laws and regulations applicable to the exercise of police authority and the requirements for the quality of police work in respect of the democratic rules of national law as well as applicable conventions, including the Convention against Torture.*

*All Police Officers carry out a basic training of 2 years and 4 months at the Danish Police College, which is part of the Danish National Police. Already at the beginning of the training, the students are introduced to the purpose, tasks and methods of police work and are made aware of the special responsibilities and duties that come with being a part of the police profession. The students must, among other things, gain knowledge of the rules and become aware of the special responsibility associated with the exercise of police power and the use of force. After completing their training, the students should be able to handle police powers and means of power in a responsible, situational and professional ethical way, in which all citizens are treated with dignity and respect and according to national law and applicable conventions.*

*Students are regularly tested during their education both through formal exams and through practical exercises.*

*In addition to providing students with basic police training to act in an ethically correct and sound manner, students are continuously evaluated during their education on both their personal competences and their overall understanding, including whether they verbally and non-verbally communi-*

*cate respectfully, and whether they are able to adapt their communication so that the recipient experiences being spoken to respectfully, and whether the police student is fundamentally "a decent person" who understands the social position of the police and respects the ethical and moral responsibility it entails.*

*In October 2018, The National Police Commissioner launched a set of new guidelines "Good behaviour in the police and prosecution service". These guidelines outline the fundamental values of the police including being polite, considerate and presentable to the public.*

*The guidelines were issued in order for the Danish police and prosecution service to have their own version of the general guidelines on good behaviour in the public sector (issued in 2017) and the seven central duties for government officials (Code VII) issued by the Ministry of Finance in September 2015.*

*The importance of the decorum requirement in Section 10 of the Crown Servants Act is highlighted also in relation to police officer's use of language. The guidelines "Good behaviour in the police and prosecution service" also sets out the consequences for not acting in accordance with the rules set out in the guidelines. The guidelines "Good behaviour in the police and prosecution service" have been disseminated to the almost 16.000 police officers, prosecutors and supporting staff in the police. In addition, they have been accompanied by a large-scale campaign to make its content known, requiring all staff of the police to take a short (30-minute) on-line test on the requirements of the guidelines before the end of 2018.*

*The Danish Police Act of 19 November 2019 regulates the use of force by police officers and stipulates that they may use force only if necessary and justified, and only by such means and to such an extent as is reasonable with a view to the interest that the police are seeking to protect.*

*The Danish Police College has issued guidelines on the principles of use of force by the police and conflict management. The guidelines stipulate the general rules of and ethical standards for use of force by the police, including the instruction of police trainees in the use of handcuffs. These principles form the basis for the teaching of all police students. The guidelines were last revised in January 2018. The guidelines stipulate, inter alia, that handcuffs if necessary – for security reasons – are always to be applied while the person is holding his hands behind his back. It must be ensured that the handcuffs have not been applied to tightly. During transportation, it must be ensured that the handcuffs cause as little inconvenience to the person as possible. In case of longer transports, a fixation belt may be applied, which restrains the person's hands in front instead of behind.*

*In order to support the implementation of the guidelines among the police officers in the police districts, the publication was published on the internal website "POLIntra" and placed in a public library available for the entire Danish Police. The principles of the publication are furthermore reflected and incorporated in all relevant further education at the Police College – both in basic training in the instructors courses held for the instructors in every district in the country. As a premise for their competence, it is mandatory that they attend a full-day maintenance course on which their skills and knowledge are updated and reminded. Overall the Police College finds that the basic police*

*training in conjunction with the ongoing evaluation of the police students and the continuous further training of police officers ensure that police officers are made aware and trained in respectful treatment of citizens and in only using force when strictly necessary, and with a clear emphasis on ethics and dignity, which meets the recommendations in paragraph 10 in CPT's report.*

### **Paragraph 11 in CPT's report**

#### **CPT's observation concerning paragraph 11:**

- The Committee would like to be informed, in due time, of the outcome of the aforementioned investigation.

*The Independent Police Complaints Authority completed the 30 of March 2020 its investigation of the case and forwarded it to the State Prosecutor of Copenhagen. The State Prosecutor decided the 8 of June 2020 to close the investigation without pressing charges against police personnel in the matter. The decision was appealed by the legal representative of the deceased's family. The Director of Public Prosecutions decided the 22 of July 2020 not to reopen the investigation and thereby upheld the decision of the State Prosecutor. The Director of Public Prosecutions is in such cases the final appeal body.*

### **Paragraph 12 in CPT's report**

#### **CPT's observation concerning paragraph 12:**

- The CPT would like to receive detailed information about the regulations in force on police identification (including possible exceptions).

*The Danish National Police has issued regulations on the Danish Police's uniforms. According to this regulation, all police officers wearing uniforms shall wear an identification number. The identification number is a unique number consisting of one letter and four digits. The identification number was introduced in 2016.*

*The identification number must be visible on the right side of the torso/chest. The only exception is when uniformed personnel use fine uniform and gala uniform.*

*As a general rule uniformed personnel must always carry the same identification numbers. However in special situations a temporary number can be used. As an example, in connection with police operations in special environments there may be grounds for carrying a temporary marking number.*

*Furthermore, the identification number can be replaced under special circumstances based on a concrete assessment. An identification number can be replaced if there is a significant risk that the police officer will be subject to harassment, for example in relation of having participated in a police operation.*

## **Paragraph 15 in CPT's report**

### **CPT's observation concerning paragraph 15:**

- The CPT reiterates its recommendation that the necessary measure be taken to ensure that the possibility of exceptionally delaying the exercise of the detained persons' right to inform a relative (or a third person of their choice) of their apprehension satisfies the aforementioned requirements.

*In 2014 the answer to the CPT observations on this issue was as follows:*

*"Pursuant to Section 2(2) of Circular no. 9155 of 18 March 2010, all persons detained by the police have the right to inform relatives or other relevant persons about the arrest. Hence, the police must without undue delay give the detainee the opportunity to inform his closest relatives or other relevant persons about the arrest.*

*However, pursuant to the Section 2(3) of the Circular, the detainee can be denied this right temporarily or definitively, if, due to the specific circumstances of the case, information about the arrest in itself may compromise the investigation.*

*The police must make this decision without undue delay. If the detainee is denied notification due to certain steps of the investigation, these steps must be completed as soon as possible.*

*If the detainee is denied this right, the police must, as a general rule, notify his/her relatives or other relevant persons, if the detainee so wishes, cf. Section 2(4). Such notification must be made without undue delay. The police must notify the detainee about the result of the notification.*

*However, the police may refrain from doing so, if due to the circumstances of the case there are specific reasons to presume that information about the arrest in itself would interfere with the investigation of the case and this is crucial for reasons of the investigation.*

*The decision to deny or delay 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, cf. Section 2(6).*

*Furthermore, the Circular stipulates that compliance with the said procedures must be recorded in the detention report or protocol. If notification is denied the reason for this must furthermore be noted.*

*The Circular is issued by the Ministry of Justice to the police and the Prosecution Service and is as such binding upon the individual police officer."*

*The Ministry of Justice maintains that no additional regulation is needed. However, following the remarks made in connection to the 2019 visit, the Danish National Police will stress the compliances of the Circular before the Danish police districts.*

*As for detention of aliens under Section 36 of the Aliens Act reference is made to the answer given to paragraph 125 and 126.*

### **Paragraph 16 in CPT's report**

#### **CPT's observation concerning paragraph 16:**

- The CPT reiterates its recommendation that the Danish authorities ensure that all persons detained by the police – including those whose family members reside outside Denmark – 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 (including a reference to the time of notification, the causes of any delays and the identity of the person notified), and detained persons should be provided with feedback on whether a member of their family or third person had been contacted.

*Reference is made to the answer given to paragraph 15.*

### **Paragraph 17 in CPT's report**

#### **CPT's observation concerning paragraph 17:**

- The CPT trusts that the Danish authorities will take appropriate steps to prevent such cases from occurring in the future.

*When the Danish police initiates a detention in accordance with Section 36 of the Aliens Act of an alien who has not applied for asylum, the Police will inform the individual of the right to establish contact to a representation of the country of origin.*

*The Danish National Police is very aware of the consular obligations of the Danish state contained in the Vienna Convention on Consular Relations of 1963. In practice, the local Danish police departments will see to arrange contact between an alien and the consular post of the country of origin if the alien requests this or if otherwise considered relevant.*

*Further reference is made to the answer given to paragraph 125 and 126.*

### **Paragraph 18 in CPT's report**

#### **CPT's observation concerning paragraph 18:**

- The CPT reiterates its recommendation that the Danish authorities take the necessary steps, including at legislative level, to ensure that the right of all detained persons (including persons detained under the Aliens Act) to have access to a lawyer is formally guaranteed and fully effective in practice as from the very outset of their deprivation of liberty.
- Further, a record should be maintained of any request by a detained person to see a lawyer and whether such a request was granted. The waiver of the right to legal assistance should be systematically signed by the detained person if he/she does not wish to exercise his/her right of access to a lawyer.

*Pursuant to Section 3(1) of Circular no. 9155 of 18 March 2010, the police must without undue delay give all detainees the opportunity to contact an attorney, who can serve as representation in the detainee's case. Access to such contact should be given in immediate connection to the detainee being brought to the police station.*

*The attorney shall in accordance with the rules in Chapter 67 of the Administration of Justice Act be given access to be present during police interrogations of the detainee, cf. Section 3(3) of the said Circular.*

*Compliance with the abovementioned rules must in all cases be noted. It follows from Section 3 (5) in the Circular that this can be done in for example the detention report. If a detention report is not made, a note must be made in the daily report or like. In order to ensure that all persons detained receive sufficient guidance about their rights, the Danish National Police has issued a leaflet that outlines the most important rights for detainees including the right to have an attorney. The document is translated into six languages besides Danish including English, Arabic and French and is presented to the detainee by the police in addition to oral guidance.*

*Furthermore, Order no. 467 of 26 September 1978 stipulates that when the police charges a person with a criminal offence which under the law can result in a more severe penalty than a fine, the police is obliged to guide the person about his/her right to an attorney. To make sure that all persons charged and detained are aware of their right to be assisted by an attorney during the police interrogation, the guidance must be given no later than the guidance about the right not to give a statement.*

*Pursuant to Section 71 of the Constitution a detained person must be brought before a court within 24 hours for a preliminary examination of the case. If a person, who is charged with a criminal offence which under the law can result in a more severe penalty than a fine, has not requested an attorney in connection with an interrogation, the person is assigned an attorney at the latest when he/she is brought before the court for a preliminary examination with the purpose of detention on remand or upholding of the arrest, cf. Section 731(1) a of the Administration of Justice Act. The person and the attorney will always be given the possibility to discuss the charge and the evidence before the court's preliminary examination, cf. Section 764(3) of the Administration of Justice Act.*

*The Ministry of Justice fully agrees with the CPT on the importance of ensuring the detainee's right to consult an attorney, and it is the opinion of the Ministry of Justice that the abovementioned provisions ensure the detainee's right in this regard.*

*Following the remarks from CPT, the Danish National Police will stress the importance of complying with the abovementioned rules via-à-vis the Danish police districts.*

*As for detention of aliens under Section 36 of the Aliens Act reference is made to the answer given to paragraph 125.*

### **Paragraph 20 in CPT's report**

#### **CPT's observation concerning paragraph 20:**

- The CPT reiterates its recommendation that the Danish authorities take the necessary steps – including by amending the relevant legislation and regulations – to ensure that:
  - the records drawn up following the medical examination of persons detained by the police contain: (i) a full account of objective medical findings based on a thorough examination (supported by a “body chart” for marking traumatic injuries and, preferably, photographs of injuries), (ii) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations/statements made and the objective medical findings;
  - The records also contain the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;
  - The results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made available to the detained person and his/her lawyer;
  - Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a person in police custody (or which are indicative of ill-treatment, even where no allegations are made), the record is systematically brought to the attention of the Independent Police Complaints Authority, regardless of the wishes of the person concerned. Police officers should advise detained persons of the existence of the reporting obligation and also that the forwarding of the report to the Independent Police Complaints Authority is not a substitute for the lodging of a complaint in a proper form.

*In cases where a person has been injured resulting from violence and the injured person states that the injuries are caused by the police, the police will instruct the person in question how to complain to the Independent Police Complaints Authority. If the person has been arrested and thereby detained*

*by the police, a doctor will attend to the person and assess whether the injuries require immediate medical treatment. The police will also certify the injuries by thoroughly describing the visible injuries in a police report and by taking photos of the injuries. Body charts are used in the most severe cases of violence against the person.*

*The Ministry of Justice maintains that the current regulation are adequate to ensure the detainee's rights.*

### **Paragraph 21 in CPT's report**

#### **CPT's observation concerning paragraph 21**

- The CPT reiterates its recommendation that steps be taken to ensure that all persons detained by the police – for whatever reason – are systematically informed of their rights, orally at the time of deprivation of liberty and through the provision of an information sheet, in a language they can understand, upon their arrival at police premises.
  
- Steps should also be taken to ensure that the fact that persons detained by the police have been provided with information on all their rights (not only the right to inform one's relatives or employer) be recorded; detained persons should be asked to certify with their signature that such information has been provided (and in which language) and, if necessary, the absence of a signature in a given case should be explained.

*In 2014 the answer to the CPT observations on this issue was as follows:*

*“According to Section 1(2) of Circular no. 9155 of 18 March 2010, persons detained by the police must be informed of their rights as set out in the Circular. The information must be given in a language, the detainee can understand.*

*In order to ensure that all persons detained receive sufficient guidance about their rights, the Danish National Police has issued a leaflet that outlines the most important rights for detainees including the right to have an attorney. The information sheet is available in Danish, English, German, French, Spanish, Turkish and Arabic and is presented to the detainee by the police in addition to oral guidance.*

*If the detainee does not understand any of these languages, the police must ensure that the information is given in an understandable way as soon as possible – possibly by an interpreter. In exceptional cases, where it is not possible to guide the detainee before release, e.g. because an interpreter is not available, the information sheet must be handed out in English. Observance of these requirements must be reported in for example the detention report or protocol, cf. Section 1(3) of the Circular.”*

*The Ministry of Justice maintains that the current regulation are adequate.*

*However, following the remarks made in connection to the 2019 visit, the Danish National Police will stress the compliance with the Circular before the Danish police districts.*



*As for detention of aliens under Section 36 of the Aliens Act reference is made to the answer given to paragraph 125 and 126.*

### **Paragraph 22 in CPT's report**

#### **CPT's observation concerning paragraph 22:**

- It would be desirable that information about the possibility to lodge a complaint with the Danish Independent Police Complaints Authority be included in the information sheet.

*As stated in the remarks to paragraph 21, the Danish National Police has issued a leaflet that outlines the most important rights for detainees including the right to have an attorney. This is done in order to ensure that all persons detained receive sufficient guidance about their rights. The information sheet is available in Danish, English, German, French, Spanish, Turkish and Arabic and is presented to the detainee by the police in addition to oral guidance.*

*The Danish National Police will ensure that information on how to lodge relevant complaints will be included in the leaflet.*

### **Paragraph 23 in CPT's report**

#### **CPT's observation concerning paragraph 23:**

- The CPT recommends that measures be taken to ensure that juveniles deprived of their liberty by the police are never subjected to police questioning or requested to make any statement or to sign any document concerning the offence(s) they are suspected of having committed without the presence of a lawyer and, in principle, a trusted adult. The relevant legal provisions should be amended accordingly.

*It follows from Section 15 of the Criminal Code that actions taken by children under the age of 15 are not punishable. However, the police have the opportunity to investigate criminal offenses committed by children under the age of 15 to identify the extent of the crime, to ascertain whether other persons may be suspected, and to recover any stolen items or other costs. Criminal proceedings against persons under the age of 15 are regulated in Chapter 75b of the Administration of Justice Act.*

*It follows from Section 821 e of the Administration of Justice Act, that in cases where a juvenile under 15 years of age has to be questioned due to suspicion of a violation of the law, which generally results in imprisonment, or an intervention is initiated, which implies – according to the rules of the Administration of the Justice Act – that a charge has been pressed against the juvenile, the holder of the parental rights or the police can ask the court to appoint a defence lawyer for the juvenile, in case the juvenile, depending on the character and severity of the case, presumably has a particular need for legal assistance. It appears from the preparatory works that the purpose of this provision is to use it in cases of homicide or violence of a particularly dangerous character.*

*A suspect is entitled to select a defence lawyer, and in certain cases – if the suspect does not voluntarily select a lawyer – a lawyer is nevertheless appointed to the suspect by the court. If a person is charged, this person must be informed of the charge and instructed that he/she is not obliged to give evidence to the police. The police also have to instruct the suspect that it is possible to have a lawyer appointed by the court. It must appear from the questioning report that these rules are respected. These rules apply to all suspects including juveniles between the age of 15 and 17.*

*In connection with the questioning of juveniles under 18 years of age, the police have to inform the responsible local authority of the case if the charge is about violation of the penal code or about circumstances that, according to the law, can result in imprisonment. However, information about the questioning can be omitted in case the juvenile caught in the act and the offence does not lead to a heavy sentence or fine. The representative of the responsible municipality must, as far as possible, be allowed to attend police questionings.*

### **Paragraph 24 in CPT's report**

#### **CPT's observation concerning paragraph 24:**

- The Committee would like to receive the Danish authorities' comments on this matter.

*It follows from section 752 of the Administration of Justice Act that the police must inform a defendant that he is not obliged to talk to the police. This must be done before the questioning and it must be stated in the police report that these rules have been observed.*

*Reference is made to the answer of paragraph 23.*

### **Paragraph 25 in CPT's report**

#### **CPT's observation concerning paragraph 25:**

- The Committee would like to know whether the Danish authorities are considering introducing the methodology of investigative interviewing within the national police.

*The police are not allowed to ask questions to a suspect in such a way that something denied or not acknowledged is assumed to be confessed. The use of promises, incorrect information or threats are not allowed, and the questioning must not be prolonged for the sole purpose of achieving a confession. Education on rules of questioning according to the Administration of Justice Act is, among other things, included in the basic training at the Danish Police College.*

### **Paragraph 26 in CPT's report**

#### **CPT's observation concerning paragraph 26:**

- The CPT once again recommends that measures be taken to ensure that all police cells have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation. If necessary, regulations and guidelines should be amended accordingly.
- Further, the CPT recalls that police cells should preferably enjoy access to natural light. This requirement should already be borne in mind at the design stage of any police premises to be constructed or redesigned.
- The CPT also wishes to recall that cells of about 5m<sup>2</sup> in size are scarcely suitable for periods of custody lasting more than a few hours.

*The Danish National Police can inform that the guidelines of 1992 as referred to in the material before CPT's assessment in 2014 were formally repealed in 2017 as the guidelines were outdated for instance with regard to the technical development, organizational changes and introduction of new standards. Following the repeal of the guidelines the Ministry of Justice has authorized the Danish National Police to issue a new set of guidelines – these new guidelines are still pending.*

*Awaiting the issuance of new guidelines, the Danish National Police has – for some time - supplemented the old (1992) guidelines when building new police facilities. Hence the holding facilities in the new police station in Holstebro (from 2016) and the new police station in Herning (from 2020) are equipped with one or more windows allowing for daylight in the cells.*

*As regards the remarks on poor ventilation in the cells of Nykøbing Falster Police Station, the National Police can inform that it is stated in the guidelines from 1992 that all new police facilities must include ventilation in detention cells and holding cells.*

*Following the remarks from the 2019 visits, the Danish National Police will establish a national overview of the design of the existing detention cells and holding cell with regard to lighting and ventilation. It is the ambition of the Danish National Police that the national overview will be initiated by the end of 2020.*

### **Paragraph 27 in CPT's report**

#### **CPT's observation concerning paragraph 27:**

- The CPT recommends that all persons and officers in charge of a police district and of a police establishment be reminded that all detained persons must have ready access to drinking water and be offered something to eat at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day.

*The detainee has upon request access to drinking water at all times. The Ministry of Justice can refer to the answer from 2014 to the CPT observations on this issue where it follows that:*

*“The Danish National Police recalls that the provision of meals for detained persons is subject to local decisions in the police districts. It is in that connection taken into consideration when the detainee is brought in to the station, normal mealtimes, the expected extend of the detention etc.”*

## **B. Prison establishments**

### **Paragraph 28 in CPT's report**

#### **CPT's observation concerning paragraph 28:**

- The CPT recommends that the Danish authorities take this precept into account when looking at projections for the prison population in the future.

*The Department of the Prison and Probation Service can advise that as part of the politically decided multi-year agreement regarding the finances of the Prison and Probation Service in the period 2018-2021, the average capacity utilisation must be 96 percent in prisons and 95 percent in remand prisons. In connection with the conclusion of the multi-year agreement, it was assumed that the average annual occupancy would be approx. 3,762 prisoners.*

*However, in 2019 the Prison and Probation Service experienced an average capacity utilisation of approx. 101 percent corresponding to an average annual occupancy of approx. 3,975 prisoners. If no initiatives are launched, it is expected that the occupancy rate will continue to increase to a total of approx. 4,120 prisoners in 2020 and approx. 4,280 prisoners in 2021, corresponding to an average occupancy rate of approx. 102-103 percent.*

*In order to handle the sharply rising occupancy rate, the Prison and Probation Service has in 2018 and in 2019 opened a total of approx. 405 prison and remand prison places. It is expected that in 2020 and 2021, an additional approx. 195 places will be opened so that the total capacity expansion will amount to a total of approx. 600 additional prison and detention places in 2021.*

*Despite the significant capacity expansions, the Prison and Probation Service expects an average annual capacity utilisation of more than 100 percent in both 2020 and 2021, and it is thus not considered possible to comply with the multi-year agreement's occupancy rate target of 95/96 percent in 2020 and 2021.*

*In addition to the capacity challenges, the probation service also witnesses personnel challenges, especially in the form of a shortage of prison officers, which makes it difficult to open up additional capacity.*

*A work is in progress to find solutions to the overall challenges in the Prison and Probation Service as a result of the sharply rising occupancy, not least in relation to the capacity situation.*

*The Prison and Probation Service notes that a number of other European countries also have capacity challenges, and that the high capacity utilisation is not an isolated Danish problem.*

### **Paragraph 29 in CPT's report**

#### **CPT's observation concerning paragraph 29:**

- The CPT recommends that the Danish authorities take the necessary measures to ensure that all prisons operate within their official capacities. Further, efforts to manage the prison population should be pursued, taking due account of the full set of principles listed in the Council of Europe Committee of Ministers Recommendation No. R(99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Recommendation Rec(2003)22 on conditional release (parole), Recommendation CM/Rec(2010)1 on the Council of Europe probation rules and Recommendation CM/Rec(2017)3 on the European Rules on community sanctions and measures.

*As mentioned above regarding paragraph 28, it is part of the politically decided multi-year agreement regarding the finances of the Prison and Probation Service in the period 2018-2021 that the average capacity utilisation should be 96 percent in prisons and 95 percent in remand prisons. Reference is also made to what has already been stated about the current capacity challenges due to the sharply rising occupancy in recent years and the Prison and Probation Service's continued efforts to counter this development.*

### **Paragraph 31 in CPT's report**

#### **CPT's observation concerning paragraph 31:**

- The CPT recommends that the Danish authorities deliver the clear message to prison officers in all prisons in Denmark that any form of ill-treatment, including verbal abuse, is totally unacceptable and will be punished accordingly.
- The CPT also recommends that prison officers in all prisons in Denmark, as well as prison transport officers throughout the country, be reminded that no more force than is strictly necessary should be used to control prisoners.

*The Department of the Prison and Probation Service agrees that any form of ill-treatment, derogatory speech and unnecessary use of force by staff is unacceptable. In the very few cases where something like this is found to have taken place, it will be sanctioned. The Prison and Probation Service's staff is informed accordingly, during their education, their continuing education as well as by the management at the individual institutions under the Prison and Probation Service.*

*It can be advised that in the period from 1 January 2018 to 5 May 2020, the Prison and Probation Service's institutions have seen four cases regarding ill-treatment and derogatory speech by the staff, directed at prisoners. The cases have been settled with a written injunction or a disciplinary sanction in the form of a warning, reprimand or fine. There has been a single case regarding unnecessary use of force, which has been settled with a warning. During the period, there have been no cases regarding violation of the Criminal Code on violence against prisoners. It can be advised that cases regarding violence against prisoners will result in dismissal.*

*It can additionally be advised that the uniformed staff in the Prison and Probation Service is taught conflict management and the use of necessary, gentle and proportionate force and/or self-defence, using the same procedure, as part of both the basic and continuing education.*

*Technical low-intensity training is practised to automate tactics and techniques and high-intensity level (with resistance) to ensure that the staff can perform tactics and techniques under pressure, and that the staff themselves test the strain which use of force may entail for the prisoner.*

*In addition, use of force and self-defence are implemented in scenario training, where the emphasis is on the ability to anticipate risk situations in order to completely avoid that they occur, to verbally de-escalate situations that cannot be avoided and to use the necessary/proportional force as gently as circumstances allow.*

### **Paragraph 32 in CPT's report**

#### **CPT's observation concerning paragraph 32:**

- The Committee reiterates its recommendation that a more rigorous approach towards combating inter-prisoner violence in prisons be put in place, which should include systematic recording and reporting of all such incidents.
- The Committee also wishes to stress, once again, that, while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the Danish authorities should seek to surround the segregation of disruptive/dangerous prisoners with appropriate safeguards, and should strive to minimise the deleterious effects of such segregation.

*The Department of the Prison and Probation Service can advise that measures against violence between prisoners are part of the Prison and Probation Service's security strategy and one of several focus areas for the Prison and Probation Service's security organisation in the coming years.*

*It can also be advised that there is zero tolerance for violence and threats. All episodes concerning physical and mental violence between prisoners are recorded and reported systematically in the client system of the Prison and Probation Service. A report is prepared regarding the episode, disciplinary hearings are held, etc., and the case is reported to the police if there is any suspicion of a criminal offense. Furthermore, sanctions are initiated in relation to the perpetrator, including a decision on possible exclusion from the community, disciplinary actions and/or transfer to another institution. The episodes also form the basis for a renewed security assessment of the prisoners, including an assessment of whether the prisoner's behaviour matches the regime under which he is placed. Against this background, the Department of the Prison and Probation Service finds that there are already systematic procedures for recording and reporting episodes of violence and threats between prisoners.*

*In the case of particularly extrovert and violent behaviour, it is possible to place prisoners in so-called 'focus wards' or, in the most serious cases, in a specially secured ward. In these wards, there is close staff contact and focus on the prisoners' physical and mental well-being.*

*In 2015, the Department of the Prison and Probation Service prepared a catalogue for the institutions on prevention, handling and recording of threats, violence and other abusive behaviour against the staff of the Prison and Probation Service and among prisoners.*

*Physical and psychological violence as well as threats of violence among prisoners are included as a measurement point in the result contracts from 2014 onwards.*

*Prisoners in security class 1 (especially increased security) and 2 (increased security), which are the highest security classes, are specifically informed about the Prison and Probation Service's zero tolerance for inappropriate language, violence and threats. They are also informed that a violation of the rules may result in a police report, transfer to a ward with less freedom benefits, exclusion from the community or a loss of the opportunity to receive visits. The information is available in Danish, English, German, French, Turkish and Arabic.*

*As far as prisoners' right to complain is concerned, this is described in leaflets prepared for prisoners about being imprisoned. Furthermore, guidance is provided on the right to complain in written decisions. Finally, staff in the institutions have been made aware that they have a duty to provide relevant information. Reference is also made to the answers in paragraphs 105 and 106.*

*The Prison and Probation Service has developed and implemented a special concept for the staff's handling of conflict-seeking prisoners. The concept supports the safety of the staff and also aims to create an opportunity for a better and more professional relationship with the prisoners.*

*In addition, it can be stated that the Prison and Probation Service's concept for the use of security assessments of remand prisoners is currently being revised, and that, among other things, prisoners are expected to be included. The work is expected to be completed by the end of 2020.*

*Reference is also made to the answer below concerning paragraph 39 with regard to ensuring that measures concerning the behaviour by extrovert/violent prisoners are not extended beyond what is necessary.*

### **Paragraph 33 in CPT's report**

#### **CPT's observation concerning paragraph 33:**

- The CPT wholeheartedly welcomes the efforts made by the Danish authorities in this regard, and trusts that they will pursue their efforts to ensure that remand prisoners are only placed in solitary confinement in exceptional circumstances which are strictly limited to the requirements of the case.

*For clarification purposes, it should be noted that the decline in the number of court-ordered isolations of remand prisoners is a result of various factors, including the close monitoring of the use of this measure.*

*However, the legal framework regulating solitary confinement is also a factor in ensuring that remand prisoners are only placed in solitary confinement in exceptional circumstances which are strictly limited to the requirements of the individual.*

*It thus follows from Section 770 b of the Administration of Justice Act that solitary confinement may only be used during remand in custody when the aim of the solitary confinement cannot be pursued through a less invasive measure, when the solitary confinement is not disproportionate to the importance of the case and the expected sanction if the defendant is convicted, and when the investigation of the suspected criminal offence is carried out with the speed required in such cases.*

*The Ministry of Justice can assure the CPT that the Director of Public Prosecutions will continue to monitor the area.*

### **Paragraph 34 in CPT's report**

#### **CPT's observation concerning paragraph 34:**

- Given the potentially harmful effects of solitary confinement, the CPT recommends that the Danish authorities pursue their efforts to ensure that court-ordered isolation of remand prisoners lasts no longer than is absolutely necessary and to counter the negative effects of this measure.
- The longer the measure of solitary confinement continues, the more resources should be made available to ensure that the prisoners concerned benefit from a programme of purposeful, and preferably out-of-cell, activities and are offered at least two hours of meaningful human contact every day (and preferably more).

*Section 770 c of the Administration of Justice Act provides for a detailed regulation of the length of solitary confinement.*

*Pursuant to Section 770 c (1) solitary confinement must not take place for a continuous period of more than 14 days if the charge relates to an offense which cannot lead to imprisonment for four years or more.*

*Pursuant to Section 770 c (2) solitary confinement must not take place for a continuous period of more than 4 weeks if the charge relates to an offense which can lead to imprisonment for four years or more but cannot lead to imprisonment for six years or more.*

*Pursuant to Section 770 c (3) solitary confinement must not take place for a continuous period of more than 8 weeks if the charge relates to an offense which can lead to imprisonment for six years or more. However, the court may by way of exception allow for the solitary confinement to be extended for a longer period if this is decisive for the prosecution and the charge is expected to lead to at least 2 years of imprisonment.*



*Pursuant to Section 770 c (4) solitary confinement must not take place for a continuous period of more than 6 months, unless the charge relates to an intentional violation of Chapter 12 or 13 of the Criminal Code (terror related crimes) or Section 191 (serious drug related crime) or Section 237 (manslaughter) of the Criminal Code.*

*Pursuant to Section 770 c (5) solitary confinement must not take place for a continuous period of more than 4 weeks if the confined person is under the age of 18, unless the charge relates to intentional violation of Chapter 12 or 13 of the Criminal Code.*

*The Department of the Prison and Probation Service can advise that Chapter 26 of the Executive Order on custody and the accompanying guidance (guidance No. 9092 of 30/01/2019) states the following regarding special offers for remand prisoners who are isolated according to court order, hereunder on meaningful, human contact:*

*'204. The provisions of Chapter 26 of the Executive Order on custody are intended to reduce the special burden and risk of mental health disorders associated with solitary confinement.*

*205. The provision in section 79 of the executive order entails a duty for the staff to pay special attention to the individual, isolated remand prisoner's need for supervision by a medical doctor, possibly a psychiatrist, staff contact, one-to-one tuition, etc., just as the isolated person must receive continuous guidance regarding special offers and rights. In particular with regard to the question regarding the need for supervision by a medical doctor, possibly a psychiatrist, it should be noted that the purpose of this rule – especially in relation to remand prisoners – is to emphasise the general duty of care that the staff has towards the prisoners. If it is deemed that there is a need for medical supervision, it is the staff's task to request this, but it is the medical doctor who decides whether supervision is (should) actually be carried out.*

*It also follows from the provision that the staff is obliged to be mindful that the isolated remand prisoners' needs for medical supervision, staff contact, visits, etc. increase with the duration of the isolation.*

*206. The provision in section 79(2) entails an obligation for the area under the Prison and Probation Service to offer remand prisoners under the age of 18 who, according to court order, have been isolated for a continuous period of more than four weeks, and remand prisoners aged 18 or over who, according to court order, have been isolated for a continuous periods of more than six months, an additional minimum of three hours of daily activation with personal contact, on top of the activation that follows from sections 81-83 of the Executive Order on custody.*

*The activation duty in section 79(2) implies that a remand prisoner who, pursuant to the provisions of sections 81-83, has so far been activated for e.g. one hour per day, from the point in time when the time limit in section 79(2) has been reached, must be offered further activation with personal contact so that the person in question is given the option of a total of four hours of daily activation. If the remand prisoner, pursuant to the provisions in sections 81-83, has so far been activated for e.g. three hours a day, the person in question must, from the point in time when the time limit in section 79(2) has been reached, be offered further activation with personal contact, so that the person in question is given the option of a total of six hours of daily activation.*

*In addition to the activation options in sections 81-83, the area under the Prison and Probation Service will be able to offer the remand prisoner e.g. leisure- and hobby-oriented activities. Regardless of which activities are offered to the prisoner pursuant to section 79(2), it is a requirement that this further activation involves continuous personal contact for the three hours.*

*The provision in section 79(3) entails an obligation for the area under the Prison and Probation Service to prepare a plan for the activation of the person in question once a week, in collaboration with the remand prisoner. The obligation applies from the point in time when the time limit in section 79(2) has been reached.*

*The Department of the Prison and Probation Service has set aside a pool of money to cover any additional expenses in connection with the activation of remand prisoners. An application to cover possible, additional expenses in this connection shall be submitted to the Department of the Prison and Probation Service.*

*207. Pursuant to section 80, remand prisoners who are in solitary confinement in accordance with a court order must, upon admission to the institution, have TV made available, free of charge.*

*208. Pursuant to section 81, remand prisoners who are in solitary confinement in accordance with a court order should be permitted a visit at least once a week. The visit time may not be shorter than one hour. This provision is also intended to help reduce the particular strain and risk of mental health disorder associated with solitary confinement.*

*209. The provision in section 82 implies that the area under the Prison and Probation Service is obliged to offer a remand prisoner who has been in solitary confinement for more than 14 days regular and extended conversations with e.g. a pastor, medical doctor or psychologist. The rule implies that the staff is obliged to offer the remand prisoner guidance about this possibility, and – when the remand prisoner so wishes – convey his wish to e.g. a pastor, medical doctor or psychologist, while it will be the pastor, medical doctor or psychologist who determines whether the conversation should actually take place.*

*An example of someone other than pastors, medical doctors and psychologists, with whom the isolated remand prisoner can be offered regular and extended conversations according to section 82, could be a person who is a regular visitor for the isolated remand prisoner.*

*210. Pursuant to section 83 of the executive order, remand prisoners who have been isolated in accordance with court order for more than 14 days must, during continued solitary confinement, be offered special access to one-to-one tuition and work, including other approved activities that may help reduce the special strain and risk of mental health disorders associated with solitary confinement.*

*211. Also in relation to these special offers for isolated remand prisoners, the area under the Prison and Probation Service must be mindful that there is no violation of the restrictions that have established for the purpose of the custody, cf. above under item 13.'*

*It should be noted in relation to the last part of the second recommendation that the Government of Denmark has reserved the right to comply or not with Rule 53A, as the Government of Denmark is of the opinion that effective compliance with Rule 53A would require considerable resources, especially human resources, which the Prison and Probation Service does not currently have at its disposal.*

### **Paragraph 37 in CPT's report**

#### **CPT's observation concerning paragraph 37:**

- The CPT recommends that the Danish authorities bring the relevant legislation and the practice into conformity with these principles without further delay.

*It is the view of the Ministry of Justice that the Administrations of Justice Act and the Executive Order on remand custody provides for a legal framework on remand prisoners' right to contact with the outside world that is in conformity with the above-mentioned principles.*

*Pursuant to the Executive Order on remand custody, section 2(1) and (2), the Department of the Prison and Probation Service handles the central management of the implementation of the remand custody. However, this applies with respect of the restrictions concerning the court's ability to issue an order on solitary confinement pursuant to section 770(a-e), cf. section 4, of the Administration of Justice Act, and the possibility of the police to set restrictions on the remand prisoner's rights according to the provisions of sections 771-773 of the Administration of Justice Act, cf. section 5.*

*Pursuant to Section 770 of the Administration of Justice Act, a remand prisoner can only be subject to restrictions, which are necessary to secure the purpose of the remand or the maintenance of order and security in the remand prison.*

*Pursuant to Section 771 of the Administration of Justice Act, a remand prisoner is entitled to receive visits to the extent that the maintenance of order and security in the detention centre permits it. The police can, due to the purpose of the remand, oppose that the remand prisoner receives visits, or insist that visits take place under supervision. The remand prisoner can request a decision to deny visits or require supervision to be submitted to the court for review. The remand prisoner is always entitled to unsupervised visits by his or her attorney.*

*Pursuant to Section 772 of the Administration of Justice Act, the police can inspect letters before they are received or sent. The police shall as soon as possible hand over or send the letter unless the content is harmful to the investigation or to the maintenance of order and security in the detention centre.*

*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 (or the prolonging thereof) is taken by the court. As of 3 November 2015, the Director of Public Prosecutions has implemented guidelines regarding the use of 'B&B' (Rigsadvokatmeddelelsen - Brev- og besøgskontrol) which must be followed by the prosecutor. The guidelines were revised in September 2019.*

*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. 'B&B' judicial restrictions are therefore as a general rule only imposed, when the purpose of the remand is to prevent the detainee from obstructing the course of the proceedings, in particular by removing traces or warn or influence others.*

*At the request of the remand prisoner the prosecutor will produce a written justification of the decision to impose restrictions.*

### **Paragraph 38 in CPT's report**

#### **CPT's observation concerning paragraph 38:**

- The CPT recommends that the Danish authorities take the necessary measures to ensure that this is the case.
- Further, efforts should be made to ensure that letters sent by and addressed to remand prisoners on "B&B" restrictions are forwarded without undue delay.

*The rules governing a remand prisoner's right to telephone conversation are based on the same safeguarding principles as the rules governing a remand prisoner's right to visits and to send and receive letters as well as other restrictions in a remanded prisoner's rights, cf. the Ministry of Justice's comments to paragraph 37 above.*

#### **Regulations for prisoners' and remand prisoners' access to a telephone**

*With regard to remand prisoners, it appears from section 72 of Executive Order No. 107 of 30 January 2019 that a remand prisoner may be granted permission to have telephone conversations if contact through exchange of letters takes too long time and causes significant inconvenience, and to the extent that it is practically possible. It also appears that, out of consideration for the purpose of the remand, the police may deny a remand prisoner the right to telephone conversations, just as the Prison and Probation Service may deny a remand prisoner the right to telephone conversations if it is deemed necessary for reasons of order or security. Telephone calls are listened in on or tapped, unless this is deemed unnecessary for reasons of order or security. In addition, it appears from section 73 of the executive order that requests for a telephone conversation with the defence counsel will generally be granted. These conversations are not listened in on or tapped.*

*As far as prisoners are concerned, it appears from section 57(1) of the Criminal Enforcement Act that a prisoner has the right to have telephone conversations to the extent that this is practically possible. However, access to telephone conversations may be denied if this is deemed necessary for reasons of order or security, in order to support the Prison and Probation Service's efforts against radicalisation and extremism, for reasons of preventing crime or for reasons of protecting the victim of the offense, cf. section 57(2).*

*Executive Order No. 111 of 30 March 2019 on access to telephone calls for prisoners serving a prison sentence or are in custody in the institutions of the Prison and Probation Service (the Telephone Executive Order) contains more detailed rules on access to a telephone for the prisoners.*

*In open prisons, prisoners typically make their telephone calls from their own living quarters using mobile phones that are fixed to the living quarters. The prisoners rent these mobile phones from the Prison and Probation Service and use their own SIM card or payment card in the phone.*

*For closed prisons and the Copenhagen Prisons Institution, special rules apply concerning control in the form of e.g. tapping of the prisoners' telephone conversations. In the prison wards of these prisons that have normal community time, the prisoners' right to telephone conversations can be implemented by the individual prisoner being given general permission to make telephone calls to 10 telephone owners, cf. sections 11-13 of the Telephone Executive Order. Such conversations are recorded for later control. It thus appears from the executive order, section 14(1), that the Prison and Probation Service must carry out frequent random checks of these telephone conversations and otherwise check if this is specifically deemed necessary for reasons of order or security or in order to protect the victim of the offense. The control is performed by staff who are subsequently listening to the recorded telephone conversation.*

*As mentioned in the Ministry of Justice's comments to paragraph 37, it follows from section 772 of the Administration of Justice Act that when inspecting letters, the police shall as soon as possible hand over or send the letter unless the content is harmful to the investigation or to the maintenance of order and security in the remand prison.*

### **Paragraph 39 in CPT's report**

#### **CPT's observation concerning paragraph 39:**

- The CPT would like to receive the comments of the Danish authorities on this matter.

*The Department of the Prison and Probation Service can advise that the Prison and Probation Service's prison and remand capacity is divided into four security classes, which – together with security assessments of the prisoners – shall contribute to an analysis-based placement and handling of the prisoners.*

*The Department of the Prison and Probation Service can advise that Ward E in Storstrøm Prison is classified as a specially secured ward which can accommodate security classes up to category 1 remand prisoners and prisoners serving sentences. The ward is currently divided into two subsections.*

*As a rule, one ward only houses remand prisoners with a gang affiliation. This is an ordinary remand ward.*

*The second ward functions as a specially secured ward (the ward is stricter in terms of regime than the remand ward) and houses both remand prisoners and prisoners. The prisoners here are predominantly highly likely to attempt evasion and/or are likely to commit violent acts. These are not prisoners who have been excluded from community time pursuant to section 63 of the Criminal Enforcement Act or placed in observation cells or security cells, cf. sections 64 and 66 of the Criminal Enforcement Act.*

*Concerning remand prisoners (both in the gang/rocker ward and in a specially secured ward)*

*At the time of admission, the Prison and Probation Service carries out a security assessment of all remand prisoners. The security assessment includes several factors, hereunder personal dangerousness, risk of evasion, risk of illegal communication, the nature of the crime and any gang relationships. The security assessment is based on information about the prisoner. This may e.g. be about the charge, and whether the person in question is subject to letter and visit control (B&B), which appears from the cover note to the remand prison that is handed over to the remand prison at the time of admission. It may also be about other information from the police as well as the Prison and Probation Service's own information, e.g. from previous incarceration, etc.*

*The security assessment is reassessed at least every three months, in disciplinary actions and at transfers. The assessment supports a correct security handling of the prisoner, ensuring e.g. a targeted placement so that the individual can be handled in a way that is tailored to the specific security need.*

*Concerning prisoners in the specially secured ward*

*At present, only remand prisoners are covered by the security assessment procedure, cf. above. However, it has been decided to extend the scheme so that prisoners serving sentences are also included, and the practical work on this is currently underway. If a further tightened security procedure is initiated, it will be re-evaluated at least every four weeks whether to maintain it.*

*In the ward with the stricter regime, there is a great deal of focus on the prisoners' physical and mental well-being on a daily basis. Thus, there is close staff contact, weekly interdisciplinary meetings with the opportunity to connect with other professionals such as psychologists, psychiatrists, religious preachers, etc. Besides, every 14 days a conversation is conducted with the individual prisoner (both prisoners and remand prisoners).*

*Placement of prisoners in special wards with a stricter regime always takes place following a specific assessment. The placement is not maintained beyond the period in which the criteria are assessed to be met. If conditions of significance for the risk of causing harm to other persons or the evasion risk are assessed as minimised, the prisoner will thus be transferred to another ward. In particular, prisoners who are considered to be dangerous to other persons or where there is an evasion risk may be included in a limited community with a view to further assessing how the looser framework is administered.*

*Individual action plans are thus prepared for each individual prisoner under a stricter regime, including, among other things, plans in regard to the abolition of the stricter regime and the (re)integration of the individual into the ordinary prison population.*

#### **Paragraph 40 in CPT's report**

##### **CPT's comment concerning paragraph 40:**

- Steps should be taken to remedy this deficiency.

*The Prison and Probation Service Zealand, to which Storstrøm Prison belongs, has informed the Department of the Prison and Probation Service that Storstrøm Prison has checked the ventilation in all wards. In this connection, all cooker hoods have been replaced in the kitchen areas. With regard to the general ventilation in the prison, it can be stated that an external company has checked whether the prison's ventilation system can be optimised.*

*The Department of the Prison and Probation Service refers to the information provided by the Prison and Probation Service, Zealand and has further informed that the company's feedback on this is being considered by the Department of the Prison and Probation Service together with the engineering company that participated in the construction process in order to finally assess whether the prison's ventilation system can be optimised.*

#### **Paragraph 42 in CPT's report**

##### **CPT's request concerning paragraph 42:**

- The Committee welcomes this plan; it would like to receive updated information about its implementation.

*The Department of the Prison and Probation Service can advise that a replacement of the cell windows in Odense Remand Prison was planned to be commissioned in 2020. The Prison and Probation Service meanwhile investigated the possibility of building an extension to Odense Remand Prison in connection with a general investigation of the possibilities of adding new places attached to the existing prisons and remand prisons. The Prison and Probation Service has assessed that it would be most appropriate to replace the windows in the existing cells in connection with or immediately after the considered construction of a new extension of the remand prison. Mid-2020 it has for now been decided not to build an extension to Odense Remand Prison and on this background the replacement of the windows is expected to be initiated in 2021.*

### **Paragraph 43 in CPT's report**

#### **CPT's comment concerning paragraph 43:**

- In-cell toilet facilities should always be partitioned, i.e. also in single occupancy cells.

*It can be stated that the Prison and Probation Service strives to establish spatial separation when toilets are located in prison cells. However, there may be physical and/or security conditions that make it difficult or impossible to establish such a separation in the existing buildings.*

*Cells in new prisons will as a standard be established as a separate toilet adjacent to the cell.*

*The Prison and Probation Service, Capital Region, to which Blegdamsvejens Remand Prison belongs, has informed the Department of the Prison and Probation Service that it is being investigated whether the toilets can be screened off in a manner that does not affect the occupancy situation. The Prison and Probation Service, Capital Region, does not currently have a time perspective for this solution, but intends to have it investigated in more detail this year.*

*The Department of the Prison and Probation Service refers to the information provided by the Prison and Probation Service, Capital Region.*

### **Paragraph 44 in CPT's report**

#### **CPT's request concerning paragraph 44:**

- The Committee would like to receive confirmation, in due time, that the Copenhagen Police Headquarters is no longer being used as a prison.

*At the meetings with the CPT in the spring of 2019, the Prison and Probation Service stated that it was the expectation that the prison at the Copenhagen Police Headquarters (the Police Headquarters' Prison) would be closed and returned to the police in 2020. Due to the high remand occupancy, it was in the autumn of 2019 agreed with the Copenhagen Police that the prison can be used throughout 2020. Whether the prison may possibly be used for a longer time has not yet been clarified. It can also be stated that it has now been decided that the prisoners in the Police Headquarters' prison will be transferred to Vestre Prison, which has organised two floors as a specially secured ward, which can house security class I prisoners. At the same time, 'the cadastre the Police Headquarters' Prison' will simultaneously change its name to 'Polititorvets Remand Prison' ('the Police Square Remand Prison') from 1 September 2020. The 'Polititorvets Remand Prison' shall – until the needs of the police for the facilities have been clarified – be used for remand prisoners who have been imprisoned according to section 35 of the Aliens Act. As it is expected that there will be a continued increase in occupancy in 2020 and 2021, it is the Prison and Probation Service's assessment that the places will also be needed after 2020.*



## **Paragraph 45 in CPT's report**

### **CPT's recommendation concerning paragraph 45:**

- The CPT reiterates its recommendation that steps be taken to ensure that all prisoners have unimpeded access to toilet facilities without undue delay at all times (including at night), at the Copenhagen Police Headquarters Prison and Odense Remand Prison, as well as in all other prisons in Denmark.

*The Prison and Probation Service fully agrees with the recommendation that all prisoners shall have unhindered access to toilets without unnecessary waiting time, including at night, and it is the clear understanding that the institutions are in compliance with this. However, as recommended by the Committee, the Department of the Prison and Probation Service has asked all four areas under the Prison and Probation Service to remind the institutions of the importance of this measure. It can also be stated that the Prison and Probation Service, when a new prison building is planned, always provides prison cells with a toilet in the cell or adjacent to the cell. In this connection, reference is made to the answer above concerning paragraph 43.*

### **The Police Headquarters' Prison**

*The Prison and Probation Service, Capital Region, to which the Police Headquarters' Prison belongs, has informed the Department of the Prison and Probation Service that the Police Headquarters' Prison as soon as possible gives the prisoners access to toilet facilities. The waiting time in connection with toilet visits varies from approx. 5 to 20 minutes depending on demand and whether the staff can be released from other tasks, including urgent security incidents concerning other prisoners.*

*There is an ongoing focus on minimising the waiting time in connection with toilet visits, which has been articulated by both the previous and the current management.*

### **Odense Remand Prison**

*The Prison and Probation Service, Southern Denmark, to which Odense Remand Prison belongs, has informed the Department of the Prison and Probation Service that Odense Remand Prison prioritises cell calls for toilet visits, and the acceptable waiting time to go to the toilet is normally 15-20 minutes, which is rarely exceeded. It has been emphasised to the staff that answering cell calls – both during the day and at night - must be given high priority.*

*As for the description of a prisoner who allegedly had to use the trash can as a toilet when he had diarrhoea, the remand prison has not heard of the episode and have not been able to identify a similar episode.*

## **Paragraph 47 in CPT's report**

CPT's recommendation concerning paragraph 47:

- The CPT encourages the management of Storstrøm Prison to pursue their efforts to make full use of the available facilities for prisoners' activities and to seek to engage more prisoners in these activities.

*The Prison and Probation Service, Zealand, to which Storstrøm Prison belongs, has informed the Department of the Prison and Probation Service that prisoners are secured employment through a job placement committee, consisting of a supervisor, an education coordinator, a teacher, a foreman and a manager. Regular meetings are held once a week, where the prisoner is assigned work and education based on the prisoner's risk, needs, wishes and the goals in the action plan which, cf. section 31(2) of the Criminal Enforcement Act, is prepared in collaboration with the prisoner for the incarceration period and the time after the release. Storstrøm Prison assigns employment to the prisoners on the basis of their needs and wishes and on the basis of the prison's requirements for sectioning, so that all employment and training facilities are utilised.*

*The Prison and Probation Service, Zealand, has further stated that prisoners in Storstrøm Prison (with certain exceptions) in their spare time have the opportunity to exercise in the sports hall, play table tennis and table football in the ward, on request exercise in the fitness room, have daily yard time in the outdoor area, library visits every 14 days, church visits once a week and shopping twice a week at the grocery store. The Prison and Probation Service, Zealand, adds that all wards basically have community time after the end of the workday, where prisoners can cook together, watch TV etc.*

*The Department of the Prison and Probation Service thus finds that the management of Storstrøm Prison with a wide range of employment and leisure offers and with the placement committee strives to match prisoners' risks, needs and wishes with the prison's employment facilities, taking sectioning into account. The Department of the Prison and Probation Service can advise that work is currently being done to further strengthen the need and risk assessment tool LS/RNR (Level of Service/Risk, Need, Responsivity) in the country's prisons, so that the match between the identified needs and the employment offered is supported to an even greater extent.*

**Paragraph 48 in CPT's report**

CPT's recommendation concerning paragraph 48:

- The CPT encourages the management of Storstrøm Prison to develop adequate programmes of activities for remand prisoners, taking into account the above remarks. The longer the period for which remand prisoners are detained, the more developed should be the regime offered to them.

*The Prison and Probation Service, Zealand, to which Storstrøm Prison belongs, has informed the Department of the Prison and Probation Service that remand prisoners in Storstrøm Prison are offered appropriate employment activities inside and outside the cell, including work in the cell, work in a workshop and education at the school or as self-study in own cell.*

*The prison offers the prisoners who are retained for a long period as remand prisoners permanent employment in the remand prison's workshops, just as the prison offers education.*

*Work in a workshop or education in a prison school is offered to remand prisoners to the extent that it is compatible with the purpose of the remand custody.*

*The employment offered to remand prisoners does not depend on the duration of the incarceration, but on the conditions under which the persons concerned are remanded in custody. It is the aim that only remand prisoners who are in solitary confinement by court order are employed without community time with other prisoners in order not to interfere with the purpose of the remand. This means that there are remand prisoners who have the opportunity for full-time employment, even though the remand custody is of a short duration, just as there are remand prisoners who are in solitary confinement by court order and therefore do not have the opportunity to be employed together with other prisoners, even if the incarceration is of longer duration. This is in line with the principle of minimum intervention.*

#### **Paragraph 49 in CPT's report**

CPT's recommendation concerning paragraph 49:

- The CPT recommends that measures be taken to offer prisoners under the maximum security regime, at Storstrøm Prison, structured programmes of constructive activities, preferably outside the cells, based on individual projects intended to provide prisoners with appropriate mental and physical stimulation.

*The Prison and Probation Service, Zealand, to which Storstrøm Prison belongs, has informed the Department of the Prison and Probation Service that prisoners in the specially secured ward in building E in Storstrøm Prison are offered employment outside their own cell in specially arranged workspaces. The prisoners may be employed in pairs if approved. The prisoners are also offered education in specially equipped school premises in the form of preparatory adult education (FVU), general adult education, including dyslexia training (AVU) and higher preparatory examination (HF) which gives access to medium/long higher education. The prisoners can participate in learning activities in pairs, if approved for it.*

*The Department of the Prison and Probation Service thus finds that the prisoners in the specially secured ward in building E in Storstrøm Prison are already offered structured and constructive activities outside the cells.*

*Reference is also made to the answer concerning paragraph 48.*

#### **Paragraph 50 in CPT's report**

CPT's request concerning paragraph 50:

- The CPT would like to receive updated information about the regime in force in the unit for female prisoners at Storstrøm Prison.

*The Prison and Probation Service, Zealand, to which Storstrøm Prison belongs, has informed the Department of the Prison and Probation Service that Storstrøm Prison is basically intended for male prisoners. If necessary, parts of the capacity can be converted to remand places for female remand prisoners. At the time of the CPT's visit, the female remand prisoners were placed in a remand ward where there were also male remand prisoners.*

*As the staff specifically assessed that the safety of the women could not be guaranteed in a gender-mixed community, the community time in the ward was divided between the male and female remand prisoners. For security reasons, the community time outside the cell was thus halved for both the female and male remand prisoners in the ward.*

*The Prison and Probation Service, Zealand, has further stated that as of 12 August 2020, there are four female remand prisoners in Storstrøm Prison. As it is still not possible to assign an entire ward to women in Storstrøm Prison, the women are still in a remand ward, where there are also male remand prisoners. For security reasons, the described practice of a gender-segregated community has been maintained. Similarly to the male remand prisoners in the ward, the female remand prisoners thus have the opportunity for two hours of daily community time outside the cells. Also, the remand prisoners have the option of an additional two hours of cell community time. Thus, the female remand prisoners do not have or have not had less opportunity for community time than the male remand prisoners in the gender-mixed remand ward in Storstrøm Prison. Further the Service has stated that all female remand prisoners are employed in a workshop five hours a day from Monday to Friday.*

*In general, it can be stated that remand prisoners and short-term prisoners of both sexes can be placed in a remand ward. The prisoners must, as far as possible, have community time with other prisoners. However, the possibilities for community time will always be organised on the basis of a concrete assessment of the conditions in the institution, including the current composition of prisoners. Security considerations may thus influence the prisoners' opportunity to have community time.*

*In principle, there is no difference between the safety criteria used when male and/or female prisoners are assigned community time. It is also possible to allow male and female prisoners to have community time if the institution deems it completely safe.*

*There are relatively few female remand prisoners in the Danish remand prisons. The aim is therefore, as far as possible, to place female remand prisoners in a remand prison where there are one or more other female remand prisoners so that they can have community time with each other.*

*It is also noted that as part of the implementation of the multi-year agreement for the Prison and Probation Service 2018-2021, a women's ward will be established in Jyderup Prison, where female remand prisoners from Zealand typically will be placed in the future.*

### **Paragraph 53 in CPT's report**

CPT's recommendation concerning paragraph 53:

- The CPT encourages the management of Odense and Blegdamsvejens Remand Prisons to pursue their efforts to offer all prisoners, in particular those detained for longer periods of time, access to purposeful out-of-cell activities.

Odense Remand Prison

*The Prison and Probation Service, Southern Denmark, to which Odense Remand Prison belongs, has informed the Department of the Prison and Probation Service that prisoners in Odense Remand Prison who are not occupied with work or education are offered cell community time in pairs in one of the cells, from 12:30-19:00, including having the evening meal together in the cell. This arrangement also existed prior to the Committee's visit. For other prisoners, cell community time starts at 15:15-19:00.*

*The prisoners also have the opportunity to do cardio training in three fitness rooms, just as there is an opportunity to play table tennis. In addition, it is possible to borrow books once a week, where a librarian from Odense Central Library visits. There is also an hour-long yard trip daily, and the prisoners have the opportunity to receive visits for at least 1½ hours each week. Odense Remand Prison also offers substance abuse treatment. The addiction treatment provider is present in the remand prison on all weekdays.*

*The Prison and Probation Service, Southern Denmark, has added that for many years a parish pastor has been associated with Odense Remand Prison. The pastor visited the remand prison every week, where he acted as a pastoral carer with contact to the prisoners, and there has been a Christmas service every year. The pastor is currently associated with Odense Remand Prison on on-call basis. If a prisoner wants a talk to the pastor, the pastor will thus be summoned.*

*The Prison and Probation Service, Southern Denmark, has also stated that the prisoners who have served in the remand prison for a long time are daily encouraged by the staff to take advantage of the offers.*

Blegdamsvejens Remand Prison

*The Prison and Probation Service, Capital Region, to which Blegdamsvejens Remand Prison belongs, has informed the Department of the Prison and Probation Service that prisoners in Blegdamsvejens Remand Prison are offered employment in the form of work, substance abuse treatment (both individual conversations and group conversations) and education. In addition, there are offers of cardio training, sports, fathers' groups, study groups, church services with a pastor, 'food and sports' with a prison officer twice a month, library service and visits. All the mentioned activities take place outside the cell.*

*The Prison and Probation Service, Capital Region, has also stated that at Blegdamsvejens Remand Prison, it is the prisoners' spokesperson who approaches new prisoners to encourage them to participate in the offered activities.*

*As also mentioned above under paragraph 48, the employment offered to remand prisoners is not dependent on the duration of the incarceration, but on the conditions under which the persons concerned are remanded. In order not to interfere with the purpose of the remand custody, it is endeavoured that only remand prisoners who are in solitary confinement by court order are employed without community time with other prisoners. This means that there are remand prisoners who have the opportunity for full community time in workshops, even if the remand prison is of a short duration, just as there are remand prisoners who are in solitary confinement by court order and who therefore do not have the opportunity to be employed in a workshop with other prisoners, even if the incarceration is of longer duration. This is in line with the principle of minimum intervention.*

### **Paragraph 54 in CPT's report**

#### **CPT's comment concerning paragraph 54:**

- Steps should be taken to ensure that prisoners, once sentenced, are transferred promptly from a remand prison to a prison (where, inter alia, more diversified activities are provided).

*The Department can advise that the Prison and Probation Service focuses on the rapid transfer of convicted prisoners from remand prisons to closed prisons. However, as described above regarding paragraph 28, in 2019 there has been a high occupancy rate in e.g. closed prisons and, as a consequence, longer waiting times for the transfer of convicts from remand prisons to closed prisons. In addition, there are also cases where transfer to continued incarceration should not take place in accordance with the provision in section 21 of the Criminal Enforcement Act, which has the following wording:*

*'Section 21. Prison terms are normally served in prison.*

*(2) Short-term incarceration may be served in a remand prison to the extent necessary for the overall utilisation of the places in the institutions under the Prison and Probation Service.*

*(3) Prison terms may furthermore be served in a remand prison, if*

*1) it must be considered necessary in order to prevent assault on fellow prisoners, staff or others in the institution or as part of the efforts against radicalisation and extremism,*

*2) there are specific reasons to believe that the dangerousness or criminality of the convicted person makes it necessary to prevent escape, arson or smuggling or trafficking of narcotics,*

*3) it must be considered necessary to protect the convicted person from assault or*

*4) the convicted person according to the medical information should be placed at Vestre Hospital.*

*(4) Prison term can only be served in a remand prison if the convicted person agrees and*

*1) has access to work, education or other approved activity: or*

*2) special family or other personal circumstances justify it.'*

### **Health-care services**

## **Paragraph 56 in CPT's report**

### **CPT's recommendation concerning paragraph 56:**

- In the light of the above, the Committee recommends that:
  - the Danish authorities increase (at least double) the presence of general practitioners at Storstrøm Prison, Odense Remand Prison and Blegdamsvejens Remand Prison, and improve the access to dental care at Storstrøm Prison;
  - efforts be made to arrange daily visits, i.e. including at weekends, by a nurse in Storstrøm Prison, Odense Remand Prison and Blegdamsvejens Remand Prison, as well as in the Copenhagen Police Headquarters Prison for as long as it remains in service.

*In relation to the extent of the health-care staffing in the Prison and Probation Service, the Department of the Prison and Probation Service can initially state that offers of medical treatment and other health assistance to prisoners are generally arranged so that the offer corresponds to the health-care offered to all citizens in society (the principle of normalisation).*

*A large part of the health-care treatment of prisoners thus takes place in the general health-care sector, while the health-care staff within the Prison and Probation Service primarily function as a replacement for the general practitioner (specialising in general medicine), whom a citizen is normally assigned, and who partly handles the diseases and conditions that do not require specialist medical treatment, and partly refers to specialist medical treatment, where it may be required.*

*The Prison and Probation Service, Zealand, to which Storstrøm Prison belongs, has informed the Department of the Prison and Probation Service that there are currently health-care staff in Storstrøm Prison every weekday during normal working hours. Thus, a nurse is present every weekday in the period from approx. 8-15.30. A medical doctor comes in twice a week (Monday and Thursday) for 7-8 hours each time. In addition, a medical doctor can be contacted by telephone on the other weekdays. If there is a need for health-care on the weekends, the prison officers contact the on-call medical doctor.*

*Since the CPT's visit, the normal attendance of dental care once a week has not changed, but – in order to meet the recommendation for more attendance – an agreement has been made that the prison's dental care provider can be contacted in case of need for dental treatment, which cannot wait for the dentist's next attendance, i.e. emergency treatment.*

*Emergency treatment is offered in accordance with Executive Order No. 399 of 9 April 2015 on health assistance to prisoners in the institutions under the Prison and Probation Service, offering dental treatment which cannot be postponed until after the prisoner's release and which according to a dental assessment is necessary due to pain, other nuisances or for the sake of the prisoner's general state of health.*

*The need for a dentist's attendance is considered as sufficient with this scheme, however, it is also noted that the prisoner will be transported outside the prison for treatment if there is an urgent need for necessary dental treatment at times when no dentist is present or can be called to the prison. It is noted in this connection that the Prison and Probation Service, Zealand, has stated that the measures described have meant that the waiting time for the prison's dentist today is approx. one month and not, as at the inspection visit, four to six months, and that suddenly occurring dental problems usually are attended to within a week.*

*The Prison and Probation Service, Zealand, has added that they are working to streamline and increase the accessibility to the health-care service in accordance with the recommendations made by the Danish supervisory authority, the Patient Safety Authority, in connection with the Authority's inspection visit in 2019. According to this, Storstrøm Prison is working to improve working procedures, record keeping and cooperation regarding health-care service with a view to improving the general quality of the health-care benefits that the individual prisoner receives.*

*Storstrøm Prison has no current plans to double the presence of general practitioners in the prison, but a project group has been set up in Prison and Probation Service, Zealand, to prepare the establishment of a health-care unit to handle the health-care service in all the area's institutions, thus ensuring that the presence of medical doctors and nurses is improved at all cadastres, including in the evenings, at night and on weekends. At the same time, the reorganisation will ensure that the health service, including record keeping, is standardised across the area.*

*The Prison and Probation Service, Southern Denmark, to which Odense Remand Prison belongs, has informed the Department of the Prison and Probation Service that in Odense Remand Prison, a nurse is present 45 hours per week from 7.30-15.00. An upgrade was implemented at the end of 2019 to 37 hours per week and again from June 2020.*

*A regular medical doctor is present at the remand prison at least once a week and a psychiatrist every two weeks. In addition, outside of the hours where the medical doctor is present in the remand prison, there has since the end of 2019 been medical coverage per phone 24 hours a day, 7 days a week, by the medical doctors who otherwise visit the remand prison. The medical doctor in question will in the individual situation assess how to react, including whether it is a matter that can wait until the next consultation, or whether it is an emergency situation. Also, the ward staff will in suddenly emerging situations be able to contact the emergency dispatch centre via 112.*

*In addition, all prison officers have been trained so that they can perform tasks such as assisting the medical doctor, including handling and dispensing medications, measuring vital values, etc.*

*All prison officers are trained in first aid. Thus, there is always a prison officer on duty in the remand prison who can provide first aid.*

*A dentist visits Odense Remand Prison once a week, and emergency treatment is offered according to the current rules. The need for a dentist's presence is considered to be sufficient with this scheme, noting that the prisoner will be transported outside the remand prison for treatment if there is an*



*urgent need for necessary dental treatment outside the hours where a dentist is present in the remand prison.*

*The Prison and Probation Service, Southern Denmark, thus finds that the availability of health-care services in the remand prison is at a sufficient level.*

*The Prison and Probation Service, Capital Region, to which Blegdamsvejens Remand Prison and the Police Headquarters' Prison belong, has informed the Department that nurses are present twice a week in Blegdamsvejens Remand Prison. It is noted that in the Copenhagen Prisons Institution, which consists of Blegdamsvejens Remand Prison, the Police Headquarters' Prison and Vestre Prison, there is a nurse on duty 24 hours a day, 7 days a week. It is always possible for the uniformed staff at Blegdamsvejens Remand Prison to get in telephone contact with the nurse on duty for advice and guidance. The same applies to the Police Headquarters' Prison. It can be added that it is possible to transfer prisoners with significant health problems to Vestre Prison, including Vestre Hospital, if it is deemed necessary that health-care personnel are present 24 hours a day.*

*The Prison and Probation Service, Capital Region, has clarified that the uniformed staff at Blegdamsvejens Remand Prison and at the Police Headquarters' Prison can contact the nurse on duty at Vestre Prison around the clock. There is medical coverage via the telephone between 8.00-16.00 on all weekdays.*

*When calling the emergency number, a health professional assessment is made of whether there are grounds for transferring prisoners to Vestre Hospital, whether to call the urgent care telephone number 1813, or whether the prisoner can wait till the next weekday to be assessed by a medical doctor. If the inquiry takes place on a weekday, the medical doctor on duty decides whether the prisoners should be seen immediately. During the evening, weekend and night hours, the nurse assesses whether it is relevant to contact the urgent care telephone number 1813, or whether an assessment by and possible contact to a medical doctor can wait until the next weekday.*

*If in need of urgent medical attention, prison officers call the emergency dispatch centre 112 without any prior call to the on-duty officer, to avoid delays.*

*It is the Prison and Probation Service, Capital Region's assessment that the presence of nurses at Blegdamsvejens Remand Prison and at the Police Headquarters' Prison is sufficient.*

*The Department refers to the information provided by the various areas under the Prison and Probation Service and can add that a pilot project has been launched by the Prison and Probation Service, Southern Denmark, with the aim of giving the health-care area an organisational and professional boost. Finally, it can be stated that a small health-care project has been initiated in the Prison and Probation Service, Capital Region, also with the aim of achieving both an organisational and a health-care professional boost.*

*Both the Prison and Probation Service, Southern Denmark, and the Prison and Probation Service, Capital Region, have now introduced health professional management as a chief medical doctor has been employed in both areas as part of the projects.*

*The Prison and Probation Service, Southern Denmark, is also in the process of hiring a ward nurse with a view to strengthening professionalism. The Prison and Probation Service, Capital Region, currently has two head nurses at unit manager level who organisationally belong under the chief medical doctor.*

*Finally, the Department of the Prison and Probation Service can advise that all prison officers are trained in first aid before they begin the internship period in their institution.*

### **Paragraph 57 in CPT's report**

#### **CPT's recommendation concerning paragraph 57:**

- The Committee recommends that the Danish authorities take steps to ensure that the afore-mentioned precepts are implemented at Storstrøm Prison and at Odense Remand Prison, as well as in all other prisons in Denmark.

*The Prison and Probation Service, Zealand, to which Storstrøm Prison belongs, has informed the Department of the Prison and Probation Service that the health-care in Storstrøm Prison – as a follow-up to the Committee's visit and inspection by the Patient Safety Authority – has prepared screening procedures which are now applied. Furthermore, the health records have been improved so that they provide a better overview of, among other things, diseases and prescribed medication.*

*In general, Storstrøm Prison has focused on improving the collaboration between the health-care staff and other staff. Among other things, this has resulted in better communication with the supervisory staff around the individual prisoner. Also, special attention should be paid to handling of medication on weekends. In addition, the ward staff are to a greater extent participating in ward rounds in order to learn how the prisoner acts. In the long term, it is planned that the permanent nurse will attend a morning meeting once a week, which is a meeting held at the individual wards with all groups of employees in order to ensure synergy and knowledge among and across all relevant employees.*

*The Prison and Probation Service, Southern Denmark, to which Odense Remand Prison belongs, has informed the Department of the Prison and Probation Service that new agreements and instructions have been made regarding health-care treatment in Odense Remand Prison. All instructions have been reviewed in collaboration between management, medical doctors, other health-care staff and prison officers. The institution's management and medical doctor are jointly responsible for compliance with the applicable rules for health-care service.*

*The medical doctor cooperates with the management of Odense Remand Prison, observing the confidentiality that the Danish Health Care Act requires and the special circumstances that the custody itself entails.*

*The Department of the Prison and Probation Service refers to the information provided and can add that the Patient Safety Authority in 2019 began risk-based supervision of the institutions under the*

*Prison and Probation Service. The inspections are still ongoing, and the Prison and Probation Service regularly monitors the results of the inspections in order to follow recommendations and orders from the Patient Safety Authority, hereunder discarding expired medication. In this connection, there is increased focus within the areas under the Prison and Probation Service and at the individual institutions on managerial support of the health-care staff as well as coordination between institution management and those responsible for health-care.*

*The Department of the Prison and Probation Service can also state that, on the basis of the Patient Safety Authority's supervision, the Department of the Prison and Probation Service is in the process of uncovering whether there is a need for further training of prison officers in order to maintain their competencies in assisting with health-care treatment.*

*Finally, reference can be made to the pilot project mentioned above under paragraph 56, which the Prison and Probation Service has launched in Prison and Probation Service, Southern Denmark, with the aim of giving the health-care area an organisational and professional boost. Thus, a health professional management has now been introduced as a chief medical doctor has been hired in the area as part of the project*

#### **Paragraph 58 in CPT's report**

CPT's comment concerning paragraph 58:

- Steps should be taken to remedy this deficiency.

*The Department of the Prison and Probation Service can advise that the individual institutions under the Prison and Probation Service ensure that newly hired health-care staff are introduced to the tasks from the beginning, including health professional instructions, etc., and that the health professional organisation is adapted to the situation in the institution. Newly employed health-care staff in the institutions are also trained in the health professional tasks by experienced health-care staff, and it is possible to contact a medical doctor on call.*

*All medical doctors involved in substance abuse treatment have the opportunity to contact a specialist in anaesthesiology. In addition, they are aware of the risks involved, partly with treatment with addictive drugs, and partly with escalation.*

*Furthermore, in this connection, reference can be made to the above-mentioned pilot project which has been launched in the Prison and Probation Service, Southern Denmark, with the aim of giving the health-care area an organisational and professional boost. In this connection, the Prison and Probation Service, Southern Denmark, has set up a health unit, where the health professional management is overseen by a chief medical doctor. In relation with the pilot project, the Prison and*

*Probation Service, Capital Region, has also set up a health unit, where the health professional management is led by a chief medical doctor, while the Prison and Probation Service, Zealand, continues the work to establish a health unit.*

*The Department of the Prison and Probation Service has not been able to identify the course mentioned in the report. The Department of the Prison and Probation Service can refer to the statements which show how the individual institutions ensure an appropriate start-up process.*

### **Paragraph 59 in CPT's report**

#### **CPT's recommendation concerning paragraph 59:**

- The CPT recommends that nurses be trained to perform blood tests at Odense Remand Prison and, where appropriate, in other prisons in Denmark.

*The Prison and Probation Service, Southern Denmark, to which Odense Remand Prison belongs, has informed the Department of the Prison and Probation Service that Odense Remand Prison in December 2019 entered into an agreement with Odense University Hospital which since January 2020, upon request, will visit Odense Remand Prison every 14 days and performs blood sampling. If the medical doctor assesses that the blood sample is of a more urgent nature and cannot wait for the laboratory technician to visit the remand prison, the prisoner will be transported to the hospital for blood sampling. The remand prison receives a response to blood tests 1-2 days later.*

*The Department of the Prison and Probation Service refers to the information provided and otherwise advises that blood sampling is carried out differently in institutions under the Prison and Probation Service. This is the reason why there may be institutions where blood samples are taken on site by either a medical doctor or nurse, just as there may be institutions where blood sampling will always be done by a laboratory technician or similar.*

*The Department of the Prison and Probation Service can further advise that a project is currently underway in the Prison and Probation Service to limit evasions, in which connection it is being considered whether accompanied temporary release for, among other things, blood sampling can be handled in other ways, e.g. by the nurses taking blood samples at the institutions.*

### **Paragraph 61 in CPT's report**

#### **CPT's recommendation and comment concerning paragraph 61:**

- The CPT recommends once again that the Danish authorities take the necessary measures – including by amending the Executive Order on Prisoners' Health Care – to ensure that all prisoners are properly interviewed and physically examined by a medical doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their 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 procedure (tool) to enable them to properly assess the health-care needs of each newly-admitted prisoner. The procedure should include systematic TB screening and systematic voluntary testing for HIV and hepatitis B and C.

*In Denmark, it is a basic principle that contact with health-care providers is only established if the patient wants this. The health-care services in the Prison and Probation Service are organised in accordance with this principle, so that a prisoner who is considered capable of making decisions about his or her own life and does not express a desire to be examined or receive treatment, is not forced to be examined or treated.*

*The Department of the Prison and Probation Service can advise that it follows from section 7(1) of Executive Order No. 399 of 9 April 2015 on health assistance to prisoners in the institutions under the Prison and Probation Service that prisoners shall be given a general briefing on the prisoner's health scheme in the institution as soon as possible after the incarceration and offer the prisoner a consultation with a medical doctor or nurse affiliated with the Prison and Probation Service area.*

*However, this does not apply if the stay can be assumed to be quite short-lived, or the prisoner has been transferred from another of the institutions under the Prison and Probation Service, where the person in question has been offered a consultation with a medical doctor or nurse.*

*A note must be prepared as to whether the prisoner wishes to speak to a medical doctor or nurse, and if the prisoner so wishes, this must take place as soon as possible, cf. section 8(1) of the above-mentioned executive order.*

*In 2012-2013, on the basis of recommendations from the CPT, a study was launched in the form of an experiment with screening for somatic diseases among new prisoners in two prisons and two remand prisons. The study<sup>1</sup> led, among other things, to the recommendation that persons placed in prisons and remand prisons under the Prison and Probation Service should be offered a general health examination and that this should be performed by a medical doctor rather than a nurse or other staff who are not health trained. The results of the study were subsequently included in an external consultancy study with the aim to examine how to create the best possible health-care service in the Prison and Probation Service area.*

*As described above under paragraph 56, a pilot project has subsequently been launched in the Prison and Probation Service, Southern Denmark, regarding an organisational and professional boost of the health-care area. This pilot project is still ongoing.*

*As part of the implementation of the multi-year agreement for 2013 to 2016, an admission procedure was introduced in all prisons, where e.g. the mental health of the prisoner is uncovered. This has*

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<sup>1</sup>Screening of prisoners for somatic diseases – a study by the service section under the Prison and Probation Service, the Department of Prison and Probation Service, 2015, prepared by Natalia Bien, Knud Christian Christensen and Peter Løvgreen

*created an intensified focus on identifying mental illness and signs of the need for psychiatric assistance.*

*In 2010, the Prison and Probation Service also received funding to implement a screening scheme in which all 15-17-year-old prisoners are screened to uncover any psychiatric problems. Young people under the age of 18 who have been in a prison or remand prison for more than eight days and who have not already completed another examination, e.g. mental examination, or who are awaiting transfer to a psychiatric ward, and who have not undergone psychiatric screening or been psychiatrically examined within the past six months, are offered further psychiatric examination. The funding of the screening scheme has been made permanent, and the scheme is therefore still in operation.*

*Finally, the Department of the Prison and Probation Service can advise that if a prisoner states that he has been at risk of contracting HIV or hepatitis B or C, the staff will ensure that a medical doctor decides whether the person in question should be offered medical prevention or treatment.*

### **Paragraph 62 in CPT's report**

#### **CPT's information concerning paragraph 62:**

- In this regard, reference is made to the recommendation in paragraph 20, which applies *mutatis mutandis*.

*In regards to the recording system for patients, The Ministry of Health notes that any authorised healthcare professional has a duty to keep a patient record, when examining and treating patients as part of healthcare activities. The authorised healthcare professional is responsible for the contents of the patient's record and must be kept as soon as possible after the patient contact, cf. the Order of Authorised Healthcare Professionals' Patient Records, Section 5(1), 7(1) and 9(3).*

*For example, it must contain information about treatments, complications, side effects and observation records, cf. the Order of Authorised Healthcare Professionals' Patient Records Section 10(2)(2)(h) and section 10(2)(3)(i).*

*The Department of the Prison and Probation Service can advise that statements regarding medical doctors' obligation regarding recording and reporting of injuries belong under the Ministry of Health.*

*The injuries that a prisoner may have, are examined by the health-care staffs and noted in the person's health record. It is noted that in accordance with Danish practice, prisoners cannot be forced to receive health-care treatment. Recording of injuries will therefore in some cases depend on whether the prisoner wishes to be examined. The Department of the Prison and Probation Service does not intend to introduce a new registration system concerning injuries.*

*Violence against prisoners is not tolerated and will be reported to the police – regardless of whether the prisoner wants it or not. If the prisoner reports that he has been the victim of violence, this is*

*reported to the police for further investigation. In the event that the prisoner states that he has been subjected to violence or disproportionate use of force by the police in connection with the arrest, this will be handled by the Independent Police Complaints Authority. If the prisoner reports that he has been subjected to violence or disproportionate use of force by prison staff, this will be reported to the police, and the local management will be informed in order to take any necessary employment law steps.*

*In this connection, it can be stated that in February 2018, the Department of the Prison and Probation Service issued a circular letter to the areas under the Prison and Probation Service – Circular on information and processing of cases where an prisoner complains about having been subjected to abuse, etc. by employees within the Prison and Probation Service (CIS No. 9088 of 22 February 2018). In the letter, it is, among other things, pointed out to the institutions under the Prison and Probation Service that if a prisoner complains about having been abused, etc. by employees, if employees or co-prisoners state that there has been abuse, or if this has otherwise been questioned, an effective investigation of the case must be initiated. This means, among other things, that it is the duty of an administrative authority to inform the case to the extent it is necessary in order to make a sound decision (the principle of investigation,) and that the case must be dealt with in accordance with international standards and the standards concerning examination of information on the ill-treatment of detained persons, including the European Convention on Human Rights (ECHR) and Articles 12-13 of the UN Convention against Torture, etc.*

*The Department of the Prison and Probation Service can also advise that the health professional supervision carried out by the Patient Safety Authority in prisons and remand prisons has resulted in stronger focus on compliance with the rules on record keeping.*

### **Paragraph 63 in CPT's report**

#### **CPT's recommendation concerning paragraph 63:**

- The Committee recommends that steps be taken to bring practice into line with the afore-mentioned considerations in the Copenhagen Police Headquarters Prison for as long as it remains in service.

*The Prison and Probation Service, Capital Region, to which the Police Headquarters' Prison belongs, has informed the Department of the Prison and Probation Service that the Copenhagen Prisons Institution can confirm that examination by a medical doctor or nurse in the Police Headquarters' Prison takes place in the cells.*

*A medical doctor or nurse can, in principle, examine the prisoners without a prison officer being present in the cell. However, due to the risk of assault and thus for the sake of the safety of the staff, it may be decided – especially in the Police Headquarters' Prison, where the most externalising prisoners are placed – that there should be three to four officers present when the door to the prisoner's cell is opened. If a prisoner is subjected to such a decision for security reasons, prison officers will*

*in principle be present in the cell during an examination by a medical doctor or nurse. However, this can be deviated from on the basis of a concrete assessment of the individual prisoner's circumstances. The prison officers are – when present in the cell together with a medical doctor or nurse for security reasons – aware of the need for patient confidentiality, and the prison officers will therefore stay discreetly in the background.*

*The Department of the Prison and Probation Service refers to the information provided and also wants to add that the Department of the Prison and Probation Service agrees that health examinations and/or treatment must take place in a way that ensures patient confidentiality as far as at all possible. At the same time, however, the Department of the Prison and Probation Service wishes to draw attention to the fact that there may be specific situations where it is necessary for security reasons for prison officers to be present in the cell.*

*In relation to assault alarms, the Department of the Prison and Probation Service further wishes to advise that the Prison and Probation Service will not be able to guarantee the safety of health workers in the event of an assault alarm. In some situations, it will be too late if the prison officers are not present in the room and have to wait for a possible alarm before they can enter the room and intervene. One might also imagine a situation where the prisoner physically prevents the health-care staff from pressing the assault alarm.*

#### **Paragraph 64 in CPT's report**

##### **CPT's recommendation concerning paragraph 64:**

- The CPT recommends, once again, that steps be taken to ensure that prisoners have confidential access to the health-care service in all the prisons in Denmark. In particular, prisoners should not be obliged to state to prison officers the reason why they wish to see a member of the health-care staff. Submitting request forms in sealed envelopes is a valid option but requires, inter alia, that all prisoners are properly informed about this possibility. The installation (in all units) of dedicated locked letterboxes for requests for medical consultations to which only members of the health-care team have access could be another option.

*On the basis of CPT's observations, the Department of the Prison and Probation Service will remind the areas under the Prison and Probation Service that all prisoners are made aware of the possibility of submitting a written request for health-care in a sealed envelope, which is only opened by health-care staff.*

#### **Paragraph 65 in CPT's report**

##### **CPT's recommendation and comment concerning paragraph 65:**



- The Committee recommends that steps be taken to ensure that this is the case in all the prisons in Denmark.
- Furthermore, the Danish authorities are invited to draw up a list of medication that should in every case be distributed by health-care staff (such as methadone and antiretroviral drugs).

*The Department of the Prison and Probation Service can advise that in 2019, the Patient Safety Authority began implementing risk-based supervision of the institutions under the Prison and Probation Service. The inspections are still ongoing. In connection with the inspections, attention is paid to e.g. the handling of medication in the institutions, and adjustments are made on an ongoing basis regarding issues that the inspections may have pointed out.*

*The rules on dispensing medications in prisons and remand prisons appear from circular letters and guidelines on dispensing medications, etc. to prisoners in prisons and remand prisons.*

*With an amendment of section 39 of the Medicines Act, which entered into force on 1 July 2020, the Prison and Probation Service's institutions have the option to choose between two schemes for medication handling: A scheme where the institution has the opportunity to procure, store and handle medication under a civil registration number (CPR number) as well as a scheme where it is possible to purchase, store and handle medications as joint medicines.*

*For the scheme regarding medicine under CPR number it applies that medication administration (i.e. dosing and dispensing) must be performed by a medical doctor or the person authorised by the medical doctor to do so. In addition to nurses, the medical doctor can use non-nurse-trained staff as an aid to medication administration if the staff has received training in medication dispensing. It can e.g. be prison officers.*

*If the medical doctor uses non-nurse-trained staff as an aid in the administration of medication, there must be a written instruction that explains the dosing and dispensing of medication in the institution. It is a prerequisite for the delegation of medication dispensing that the non-nurse-trained staff is familiar with this instruction.*

*The medical doctor instructs the non-nurse-trained staff in medication administration and provides guidance on dosing, dispensing and any need for observation of effects and side effects. The medical doctor must make sure that the staff has understood the task, and the medical doctor also supervises the medication dispensing of this staff group. The medical doctor is responsible for prescribing all given medication, including the medication administered by the person authorised by the medical doctor.*

*The institutions that choose or have chosen the scheme concerning joint medicine will have a locked medicine cabinet or medicine room, from which health-care professionals who meet certain specified education requirements, in accordance with a medical doctor's prescription, can dispense and divide medications in dosed quantities to the individual prisoner. If the medicine is to be dispensed to the*

*prisoners by prison officers, the health-care professional will move the prescribed medication to another cabinet or room outside the medicine cabinet with restricted access, from where prison officers can pick up the medication and deliver it to the prisoner according to written procedures. Prison officers are subject to a duty of confidentiality, which is why the Prison and Probation Service does not find that there is a breach of confidentiality in connection with this procedure.*

*The Department of the Prison and Probation Service can also advise that prison officers as part of their training receive training in medication handling, and that the Department of the Prison and Probation Service, on the basis of the Patient Safety Authority's inspections, will determine whether there is a need for further training of prison officers to maintain their competencies in this respect.*

*Finally, the Department of the Prison and Probation Service can advise that it would not be proper to draw up a list of medications that may only be dispensed by health-care staff because not all institutions have health-care staff present around the clock, and therefore there is a need for prison officers in their capacity as medical doctors' assistants to dispense prescribed medication, including methadone, etc. However, in places where prison officers have to hand out joint medicine, the health-care staff will have dispensed the medicine.*

*Medical doctors in the Prison and Probation Service follow the guidelines for prescribing medication, which are set out by the health authorities. In this connection, it can be stated that in June 2019, the Patient Safety Authority issued a revised version of the 'Guidance on prescribing addictive drugs'. The purpose of the guidance is, among other things, to reduce the risk of patients developing addiction or experiencing cognitive side effects or poisoning.*

### **Paragraph 66 in CPT's report**

CPT's recommendation concerning paragraph 66:

- The CPT recommends that steps be taken to ensure appropriate supervision of the pharmacy at Storstrøm Prison.

*In the autumn of 2019, the Patient Safety Authority paid a supervision visit to Storstrøm Prison. As a follow-up to this supervision visit, there have been some improvements in the procedures for storage of medications. There are now procedures that ensure that the medicine is stored correctly and that no expired medicine is in stock.*

*The Department of the Prison and Probation Service refers to the information provided.*

### **Paragraph 67 in CPT's report**

CPT's recommendation concerning paragraph 67:

- The CPT recommends that at a minimum every prison be equipped with medical oxygen as well as an electrocardiography machine. Further, nurses should be trained to perform electrocardiograms, and ECG interpretation should be ensured.

*The Department of the Prison and Probation Service can advise that in 2019, the Patient Safety Authority began implementing risk-based supervision of the institutions under the Prison and Probation Service. The inspections are still ongoing. The Patient Safety Authority has not issued any orders or recommendations that the Prison and Probation Service's institutions must have ECG or oxygen. Certain institutions have been instructed to ensure adequate emergency preparedness with a Rubens Balloon, so that treatment that involves the risk of developing acute poisoning such as respiratory arrest can be performed in a manner that is safe for the patient. The institutions that have been ordered to acquire a Rubens balloon have already done so.*

*Therefore, the Department of the Prison and Probation Service finds no reason to make changes in relation to ECG machines and oxygen stocks.*

### **Paragraph 68 in CPT's report**

#### **CPT's comment concerning paragraph 68:**

- Steps should be taken to remedy this deficiency.

*The Department of the Prison and Probation Service can advise that in 2019, the Patient Safety Authority began implementing risk-based supervision of the Prison and Probation Service's institutions.*

*The Department of the Prison and Probation Service can also advise that there is no requirement that patient records shall be digital, and that most of the Prison and Probation Service's institutions keep paper patient records. Following the inspection by the Authority, there is increased focus in the individual institutions on managerial support of the health-care staff as well as on coordination between the institution's management and the health-care responsible person(s), including record keeping, etc.*

*The Prison and Probation Service, Zealand, has advised that Storstrøm Prison has just completed a review, clean-up and systematisation of the health professional records of all prisoners. The journals are now manageable and uniform, and information can be easily retrieved.*

*The Prison and Probation Service, Southern Denmark, has advised that all journals are entered into a Word document, printed out and placed in the paper journal. The notes are saved in differently coloured folders in the journal. The division of patient records into differently coloured folders ensures the greatest possible patient safety with paper records.*

*Following the latest inspection by the Patient Safety Authority on 25 February 2020, the Odense Remand Prison has changed its instructions and made so-called action cards, which provide greater*

patient safety. Likewise, from 1 May 2020, journal audits have been introduced, carried out by the local management once a month.

### **Paragraph 69 in CPT's report**

#### **CPT's request concerning paragraph 69:**

- The CPT wishes to receive the comments of the Danish authorities on this matter.

*The Ministry of Health refers to the Ministry's reply to paragraph 158 where it is stated that that due to the Ministry's strong focus on helping people with mental illnesses, the Danish Government initiated a new 10 year-plan in June 2019 to strengthen the general psychiatric conditions in Denmark.*

*In addition, the Danish Government has earmarked an additional DKK 600 million (€805,906.00) a year from 2020 and forward. Among other things, this will secure an increase in the general capacity at the psychiatric wards. In addition, it was decided to build ten new places at Sikringsafdelingen to make sure that patient's will not spend time waiting for a place. Please, refer to the Ministry's answer to paragraph 158 for a further elaboration.*

*The Prison and Probation Service, Capital Region, has informed the Department of the Prison and Probation Service that contact will always be made with the regional psychiatry in the event that a medical doctor or psychiatrist associated with the Prison and Probation Service has assessed that the prisoner may have a need for hospitalisation in a psychiatric ward in a regional setting.*

*It can also be advised that work is currently underway to establish a co-operation forum consisting of representatives from the health professional management from the Health Unit of the Capital Region and representatives from the general psychiatry. The purpose of establishing such a forum is to ensure the good cooperation between the Psychiatry of the Capital Region, the Prison and Probation Service and the Capital Region's institutions.*

*The Department of the Prison and Probation Service can also advise that it is the chief medical doctor of the psychiatric ward who at any time decides whether a patient should be admitted to a psychiatric ward and, if so, for how long. Thus, it is not the Prison and Probation Service that has the competence to admit a detained, which means that the Prison and Probation Service shall readmit the person in question when he is discharged from hospitalisation.*

*The Department of the Prison and Probation Service otherwise refers to the statement from the Prison and Probation Service, Capital Region.*

### **Paragraph 70 in CPT's report**

#### **CPT's recommendation concerning paragraph 70:**

- The CPT recommends that initial assessments of substance misuse include systematic physical examinations and that all prisoners prescribed opioid agonist therapy (OAT) be seen by a doctor upon admission. Further, such prisoners should have a care plan drawn up and be regularly followed-up by health-care staff.

*The Prison and Probation Service, Zealand, has informed the Department of the Prison and Probation Service that as a result of the supervision by the Patient Safety Authority, there has been a strengthened focus on follow-up of treatment plans, including substitution treatment.*

*The Prison and Probation Service, Southern Denmark, has advised that the procedure for admitting prisoners at the Odense Remand Prison is that an admission interview is conducted within 24 hours of admission. The interview is conducted by prison officers, who, among other things, uncover physical and mental health information that is documented and passed on to the nurse with the consent of the prisoner.*

*The nurse conducts a health professional screening of all prisoners who indicate that they wish to receive one.*

*All prisoners who start substitution treatment have had an advance consultation with a medical doctor and have been prescribed medication. At the same time, the medical doctor prepares a treatment plan, which is followed up monthly and possibly adjusted.*

*If prisoners arrive at the remand prison at times when health-care staff are not present, the prison staff always contact the medical doctor to get his evaluation of whether the staff should continue the observation of the prisoner, or whether there is a need for medical supervision and the possible preparation of a treatment plan. Prior to contacting a medical doctor, prison officers must have measured the prisoner's vital values.*

*Urine screening also takes place, and an abstinence form is filled in if the prisoner expresses abstinences.*

*If prisoners prior to incarceration are in stable treatment at an addiction centre or other prison, the prescription continues as usual – however, prisoners are always seen by the medical doctor before the treatment is continued.*

*The Department of the Prison and Probation Service refers to the information provided and can add that the Patient Safety Authority, as part of their supervision, has focused on ensuring that all prisons and remand prisons have treatment plans. The places where this has not previously been the case have been instructed to make such plans. As a result, there has been a strengthened focus on follow-up of treatment plans, including substitution treatment.*

### **Paragraph 71 in CPT's report**

**CPT's comment concerning paragraph 71:**

- It would be desirable to expand this good practice, e.g. by also providing condoms at prison infirmaries, in the establishments visited and in all other prisons in Denmark. Furthermore, other prevention services should be made available, such as needle and syringe exchange programmes and relevant vaccination.

*The Department of the Prison and Probation Service can advise that the prisoners have access to condoms in connection with visits.*

*The Department of the Prison and Probation Service can advise that in 1996, a cleaning fluid scheme was introduced for the prisoners in the prisons and remand prisons under the Prison and Probation Service, with the possibility of using cleaning fluid to clean syringes and needles before use. The scheme was introduced to reduce the risk of blood-borne diseases, e.g. HIV and Hepatitis. The scheme was made permanent in 2000.*

*Since the cleaning fluid scheme is already in place, the Prison and Probation Service has decided not to introduce the syringe exchange scheme. In this connection, the Prison and Probation Service has emphasised that with the current cleaning fluid scheme there is an acceptable offer for the addicts. Emphasis has also been placed on the fact that it may seem inconsistent to hand out syringes and needles to the prisoners at the same time as the Prison and Probation Service actively seeks to reduce drug abuse and prevent possession of tools in prisons and remand prisons, and where possession of such objects is generally subject to disciplinary punishment.*

*Furthermore, the number of intravenous drug users (people who inject drugs) has fallen significantly in recent years, similar to the development in the rest of society.*

*Both substitution treatment and social abuse treatment are offered with the aim of reducing drug abuse as much as possible.*

*Finally, the Department of the Prison and Probation Service can advise that it is a concrete and individual medical assessment whether prisoners should be vaccinated.*

### **Paragraph 72 in CPT's report**

#### **CPT's recommendation concerning paragraph 72:**

- The CPT recommends that measures be taken to address these shortcomings.

*The Department of the Prison and Probation Service can advise that it follows from section 7(1) of Executive Order No. 399 of 9 April 2015 on health assistance to prisoners in the institutions under the Prison and Probation Service that prisoners shall be given a general briefing on the prisoner's health scheme in the institution as soon as possible after the admission and offered a consultation with a medical doctor or nurse, unless the stay must be assumed to be quite short, or the prisoner is transferred from another of the institutions under the Prison and Probation Service where the person has been offered a consultation with a medical doctor or nurse.*

*If the prisoner wants a consultation with a medical doctor or nurse, this must take place as soon as possible, cf. section 8(1) of the above-mentioned executive order.*

*In Denmark, it is a basic principle that contact with health-care providers is only established if the patient wants this. The health-care services in the Prison and Probation Service are organised in accordance with this principle, so that a prisoner who is considered capable of making decisions about his or her own life and does not express a desire to be examined or receive treatment, is not forced to be examined or treated.*

*Female prisoners in Danish prisons have access to the same health-care treatment as male prisoners. They are thus, in the same way as male prisoners, offered a consultation with a medical doctor or nurse at the admission. If the woman wants such a consultation, it will be possible to request advice on gynaecological issues and/or help with other more woman-specific health problems. After a specific medical professional assessment, reference can be made to a specialist, including a gynaecologist.*

### **Paragraph 73 in CPT's report**

CPT's request concerning paragraph 73:

- The CPT would like to receive information about the measures taken to ensure that the health-care services at Jyderup Prison are organised in line with the afore-mentioned considerations.

*Today, female prisoners in Jyderup Prison receive health-care service based on the same criteria and at the same level as the male prisoners, cf. the answer to paragraph 72.*

*However, as part of the restructuring process in which Jyderup Prison will be transformed into a women's prison, the employees, including the health-care staff, will be generally upgraded in relation to the characteristics of a female target group.*

*It is the Prison and Probation Service's assessment that the conditions for female prisoners are in accordance with paragraphs 30-33 of the CPT's 10th General Report.*

*It is expected that the health-care staff, in the same way as outside the institutions under the Prison and Probation Service, can provide relevant health-care assistance to prisoners regardless of gender, and, if necessary, refer to specialists. Thus, there is no need for the Prison and Probation Service to train health-care staff specifically in women's health issues.*

*Offers of screening for cancer are hospital services that the regional council is responsible for offering according to section VI of the Danish Health Care Act. In this connection, the Prison and Probation Service assists in ensuring that the prisoners can, as far as possible, make use of the screening offers. In this connection, the Prison and Probation Service helps prisoners to access their digital mail or get an exemption in this respect. Thus, prisoners can receive offers of screening from the*

*regional council during the incarceration. The Prison and Probation Service takes a concrete position on the possibility of exit from the institution and/or transport when a prisoner has been summoned for screening which requires a visit to a hospital or similar.*

### **Paragraph 74 in CPT's report**

#### **CPT's request concerning paragraph 74:**

- The CPT would like to receive in due course a copy of the final report issued by the Danish Patient Safety Authority on the assessment of the prison health-care services, as well as information on any action taken by the Danish authorities following this assessment.

*The Patient Safety Authority is currently making health professional inspections of prisons and remand prisons. For each institution, that the Authority has visited, it prepares a report on the health-care service in the specific prison or remand prison. The Authority's reports are available on the Authority's website <https://stps.dk/da/tilsyn/tilsynsrapporter/>.*

*Based on the Patient Safety Authority's criticisms in the individual reports, the Prison and Probation Service has made the necessary changes in the health service, so that the individual prisons and remand prisons comply with Danish legislation within the health-care area.*

*A working group has been set up consisting of employees from the Department of the Prison and Probation Service and the area offices. The working group functions as a forum for the exchange of experience with a view to unifying and thereby raising the performance of health professional tasks across the Prison and Probation Service.*

*Finally, the Patient Safety Authority's inspection visits have resulted in a legislative change which means that the rules for medication handling have been adapted to the special conditions in the institutions under the Prison and Probation Service.*

### **Paragraph 75 in CPT's report**

#### **CPT's recommendation concerning paragraph 75:**

- The CPT recommends that the Danish authorities ensure that the Ministry of Health becomes more actively involved in supervising the standard of care in places of deprivation of liberty (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection). Consideration should be given to transferring the responsibility for prison health care to the Ministry of Health.

*The Department of the Prison and Probation Service can advise that the Patient Safety Authority, which is part of the Ministry of Health, is the overall health professional authority in Denmark, and that the Authority supervises e.g. treatment centres, including the institutions under the Prison and Probation Service. In 2019, the Patient Safety Authority began implementing risk-based supervision*



*of these institutions. The inspections are still ongoing. In connection with the inspections, a number of health professional issues are addressed, and there is special focus on securing and disseminating learning from the inspections to the institutions, including the institutions that do not receive visits.*

*With regard to considerations to place the responsibility for health-care treatments in prisons and remand prisons with the Ministry of Health, a decision on this will require a thorough prior analysis of the consequences, including both the organisational and the financial consequences.*

### **Paragraph 77 in CPT's report**

#### **CPT's observation concerning paragraph 77:**

- The CPT recommends that the Danish authorities persevere in their efforts to recruit prison staff and improve staffing levels in the prisons visited (as well as, where applicable, in other prisons).

*The Department of the Prison and Probation Service can advise that the Prison and Probation Service in recent years has made an extensive recruitment effort to hire prison officers. This effort will continue in the coming years. Thus, in 2019, 300 prison and transportation officers were employed. In addition, the Prison and Probation Service continuously seeks to use its personnel resources as flexibly as possible in relation to institution types and the needs of the prisoners.*

### **Paragraph 78 in CPT's report**

#### **CPT's observation concerning paragraph 78:**

- It would like to receive updated information regarding the number of staff and the number of prisoners at Storstrøm Prison.

*The Department of the Prison and Probation Service can advise that as of 1 May 2020, there were a total of 183 employees in Storstrøm Prison, of which 88 were prison officers. In addition, as of 1 May 2020, 29 prison officers from other institutions in Denmark were on loan. As of the same date, there were 252 prisoners in Storstrøm Prison.*

*The information retrieved on 5 May 2020 is preliminary and may change in connection with later registrations.*

### **Paragraph 81 in CPT's report**

#### **CPT's observation concerning paragraph 81:**

- The CPT calls upon the Danish authorities to revise the legislation in relation to disciplinary matters, taking into account the above remarks.

- In this connection, there should be a rethink of disciplinary policy in prisons and, in particular, the cases in which solitary confinement may be imposed and the duration of such confinement.

*With the political multi-year agreement on the appropriation for the Prison and Probation Service for 2018-2021, it was decided that a group of practitioners should examine the disciplinary system. The examination is conducted, and it points to the fact that the current disciplinary system has certain issues.*

*Against this background, the Prison and Probation Service and the Ministry of Justice is currently considering whether there is a need to alter the rules, including the use of solitary confinement.*

### **Paragraph 82 in CPT's report**

#### **CPT's observation concerning paragraph 82:**

- The CPT fully endorses this approach and recommends that solitary confinement as a disciplinary punishment for juveniles be abolished in Denmark.

*The Department of the Prison and Probation Service can advise that section 70(1) of the Criminal Enforcement Act was amended by Act No. 1541 of 18 December 2018 on amendment of Criminal Enforcement Act so that young people under 18 years of age may at maximum be sentenced to spend up to seven days in solitary confinement, unless the case concerns violence against staff in the institution. The statutory comments to the provision stipulate that the duration of solitary confinement is set at a maximum of three days in all ordinary cases comprising prisoners under 18 years of age. Only in special cases the duration should be set at more than three days. For the sake of the staff's safety and well-being, the change does not include cases regarding violence against the prison staff, which is the reason why in this type of case it will be possible to give solitary confinement for up to four weeks.*

*In addition, section 70(2) of the Criminal Enforcement Act was amended so that young people under the age of 18 in connection with solitary confinement may participate in employment in the institution, unless there are specific reasons not to permit it. At the same time, it appears from the statutory remarks to the provision that it should generally be possible to allow prisoners under the age of 18 limited community time in connection with solitary confinement so that they are only cut off from contact with other prisoners in their free time, i.e. employment activities can be carried out together with others, unless there are concrete reasons not to permit it.*

*From the time the Act came into force on 1 February 2019 and until 30 April 2020, no young people under the age of 18 were placed in solitary confinement for more than seven days. In the same period, there were two placements in solitary confinement for more than three days but under seven days. In both cases, the young person was sentenced to five days in solitary confinement as a reaction to the fact that the young person had used violence against a fellow prisoner. In addition, during the period, there were 16 cases where the young person was sentenced to three days or less in solitary confinement.*

*As far as remand prisoners are concerned, section 775 of the Administration of Justice Act was amended at the same time as the above-mentioned legislative change so that similar rules regarding the duration of solitary confinement and participation in employment in the institution apply to remand prisoners under 18 years.*

*It is the Department of the Prison and Probation Service's assessment that these changes on the one hand take into account the special considerations that exist when it comes to the use of solitary confinement for young prisoners and on the other hand also take into account the necessary considerations of order and security.*

*It can be advised that the practice is in accordance with the rules, and against this background the Department of the Prison and Probation Service finds no basis for easing the practice further in relation to prisoners under 18 years of age.*

### **Paragraph 83 in CPT's report**

#### **CPT's observation concerning paragraph 83:**

- The CPT recommends that the Danish authorities take the necessary steps to shorten the time required to implement the disciplinary confinement sanctions imposed. It also recommends ending the practice of prisoners being transferred to other establishments solely to serve a disciplinary punishment.

*A sentence to solitary confinement must be processed as soon as possible. This follows from section 5 of the Executive Order on the serving of solitary confinement, the use of interrogation cell and the processing of disciplinary actions (the Executive Order on disciplinary actions), which prescribes that disciplinary actions must be processed as soon as possible.*

*The Department of the Prison and Probation Service can confirm that the development in the number and duration of solitary confinement in prisons and remand prisons in recent years has placed a great strain on the capacity of disciplinary confinement cells and thus has affected the time prisoners are waiting to serve the disciplinary action.*

*The Department of the Prison and Probation Service agrees that prisoners should, as far as possible, undergo solitary confinement in the institution where the offense was committed, but at the same time the institutions have an obligation to comply with the requirement in section 5 of the executive order regarding the fastest possible processing of disciplinary actions, hereunder that solitary confinement must be served as soon as possible. However, due to the aforementioned waiting list issues, the institutions have had problems living up to both requirements at the same time.*

*Due to the great pressure on the disciplinary confinement cell capacity within the Prison and Probation Service, it is thus seen that the institutions feel compelled to (temporarily) transfer prisoners to other institutions with vacant disciplinary confinement cell capacity, if the serving of the solitary confinement should happen within a reasonable time, following the sentence to solitary confinement.*

*In this connection, it should be noted that the open prisons only have a limited number of disciplinary confinement cells, and as a result, the open prisons more often than the closed prisons may have to (temporarily) transfer prisoners who have to serve solitary confinement to another institution under the Prison and Probation Service.*

*The Ministry of Justice can advise the CPT that the challenges concerning waiting list and transfer of prisoners in relation to execution of disciplinary confinement are included in the considerations about possible changes of the disciplinary system mentioned in the answer to paragraph 81.*

### **Paragraph 84 in CPT's report**

#### **CPT's observation concerning paragraph 84:**

- The CPT recommends that, in all the establishments visited (and, where applicable, in all prisons in Denmark), all placements in disciplinary cells be immediately brought to the attention of the medical service. Health-care staff should visit the prisoner immediately after their placement and on a regular basis (at least once a day) thereafter and provide any necessary assistance and medical care without delay.

*The Department of the Prison and Probation Service can advise that it follows from Chapter 11 of the Criminal Enforcement Act and rules laid down in this regard concerning the serving of solitary confinement that health-care staff shall not carry out compulsory supervision of the prisoner when placed in the solitary confinement or later during the confinement.*

*The content of the enforcement rules is in line with the fact that Denmark has chosen to make a reservation to rule 43.2 in the European Prison Rules. It follows from rule 43.2 that prisoners placed in solitary confinement must be seen daily by a medical doctor or nurse. However, Denmark has made reservations to the rule, as mandatory supervision by a medical doctor, etc. gives rise to serious medical ethical concerns, as it could be perceived by the prisoner as a medical legitimization of the intervention and its maintenance, thus leaving doubts about the division of responsibilities between the health-care staff and the prison management.*

*It is noted that prisoners placed in solitary confinement have the opportunity to contact health-care staff in accordance with the rules that apply to all prisoners. Reference is also made to the answers regarding section 5 on health-care, in particular sections 56 and 61.*

### **Paragraph 85 in CPT's report**

#### **CPT's observation concerning paragraph 85:**

- That said, the Committee wishes to receive confirmation that all disciplinary sanctions may be appealed against by prisoners.

*The Department of the Prison and Probation Service can advise that according to section 111 of the Criminal Enforcement Act, it is the starting point that decisions under this Act cannot be appealed. However, based on the preparatory work for the Criminal Enforcement Act, it has been administratively determined that decisions on disciplinary actions in the form of solitary confinement can be appealed to the Department of the Prison and Probation Service, cf. section 10(1), No. 1) of Executive Order No. 105 of 30 January 2019 on serving solitary confinement, use of interrogation cell and the processing of disciplinary actions (Executive Order on disciplinary actions,. A complaint to the Department of the Prison and Probation Service must be initiated within two months after the prisoner has been notified of the decision. The Department of the Prison and Probation Service may in special cases disregard this time limit, cf. section 10(2).*

*Section 112 of the Criminal Enforcement Act also allows prisoners particularly easy access to judicial review. The prisoner thus has the opportunity within four weeks after being notified of the decision to have a number of final administrative decisions within certain defined categories brought before a court, including a decision pursuant to section 70, cf. section 67, on disciplinary actions in the form of solitary confinement for more than seven days. Section 112 does not apply to remand prisoners.*

*From the introduction of the provision in 2001 and up to and including 2018, a total of 16 cases concerning disciplinary actions in the form of solitary confinement for more than seven days were reviewed. Out of the 12 cases that have been decided, the court has only in one case amended the decision by the Prison and Probation Service. 9 decisions were upheld, 1 abandoned and 1 rejected.*

*The request for judicial review can be made to the Department of the Prison and Probation Service or each of the Service areas. The request may be made as a simple oral statement.*

*Cases that are opened pursuant to section 112 of the Criminal Enforcement Act must be brought before the court without undue delay by the Department of the Prison and Probation Service, which submits the case documents with information about the appealed decision and an account of the circumstances invoked as well as the evidence that may be relevant for the decision of the case, cf. section 114(1) of the Criminal Enforcement Act.*

*Aside from the prisoners' easy access to judicial review after section 112 of the Criminal Enforcement Act, it is a fundamental principle after Section 63 of the Constitutional Act that the courts of justice shall be empowered to decide any question relating to the scope of the executive's authority. Thus, any person – including prisoners – may bring their case to the courts of justice, including matters concerning disciplinary sanctions.*

### **Paragraph 88 in CPT's report**

**CPT's observation concerning paragraph 88:**

- The CPT recommends that the necessary steps be taken (including at legislative and regulatory level) to remedy these shortcomings.

*With respect to the Committee's recommendation that placement in an observation cell in order to prevent suicide or self-harm may only take place according a medical decision, and that there must subsequently be mandatory daily supervision by health-care staff, the Department of the Prison and Probation Service can advise that the rules for placement in an observation cell appear from section 64(1), No. 1 of the Criminal Enforcement Act and the Executive Order on exclusion from community.*

*As prescribed by the Criminal Enforcement Act in connection with placement in a security cell, section 20 of the Executive Order on exclusion from community stipulates that a medical doctor must be called if there is any suspicion of illness, including injury, with the prisoner in connection with the placement, or if the prisoner himself requests medical attention.*

*Inspections are performed regularly by the staff, cf. section 21 of the above-mentioned executive order, just as a note is made regarding the person's condition, regardless of whether there have been changes in the prisoner's situation or not. The frequency of inspections depends on a specific assessment. Thus, in some cases there may be a need for quite frequent inspections, while in other cases it may be sufficient to inspect at longer intervals.*

*The Department of the Prison and Probation Service does not consider it necessary to introduce rules on compulsory medical supervision or medical permission for the placement, neither in the case of security cell placement or placement in an observation cell.*

*The above-mentioned rules appropriately ensure the involvement of health-care staff in this type of cases, while at the same time taking into account the medical ethical concerns about rules on compulsory medical supervision, etc. in connection with the use of interventions against prisoners. In this connection, reference is made to the answer to paragraphs 84 and 98.*

*With regard to the recommendation that observation cell placement may only take place in cases where other means prove insufficient, it is noted that this already follows from the Criminal Enforcement Act and the Executive Order on exclusion from community. It thus follows from section 16(2) of the executive order that placement in an observation cell may not be made 'if, for the purpose of the intervention and the violation and the discomfort that the intervention must be assumed to cause, it would be a disproportionate intervention'*

### **Paragraph 89 in CPT's report**

#### **CPT's observation concerning paragraph 89:**

- The CPT recommends, once again, that the Danish authorities review the use of observation cells as regards both prisoners at risk of suicide or self-harm and prisoners who are disruptive or violent.

*With reference to the paragraph 64-66 of the response of the Danish Government to the report of 2014, the Danish authorities consider the legislation as detailed in relation to the use of observation cells. However, the Danish authorities have noted that CPT continues to find that there is a need to review the use of observation cells.*

*The Department of the Prison and Probation Service can advise that there are no current plans to carry out a more detailed investigation of the use of observation cells. Besides, it is not deemed that there is a need to change the rules on observation cell placement as the existing set of rules is seen as containing sufficient guidelines.*

*However, there is ongoing focus on the area, and if it becomes necessary to look more closely at the use of an observation cell, an investigation will be initiated.*

### **Paragraph 90 in CPT's report**

#### **CPT's observation concerning paragraph 90:**

- CPT recommends that appropriate medical surveillance be put in place when suspected body-packers are placed in detention (including in observation cells).

*Based on the recommendation, the Department of the Prison and Probation Service has obtained a statement from the Prison and Probation Service, Capital Region, to which Blegdamsvejens Prison belongs.*

*The Prison and Probation Service, Capital Region, has stated that no body-packers are placed in Blegdamsvejens Prison. The Prison and Probation Service, Capital Region, has further stated that the information in the report probably concerns a prisoner who during the period 10 to 13 April 2018 was placed in an observation cell according to the body-packer regime in Vestre Prison. The prisoner arrived from a hospital's gastroenterology department, where the prisoner did not want to participate in a CT scan of the stomach and also did not want to take laxatives. Therefore, the prisoner was placed in an observation cell at Vestre Hospital, where the prisoner sat in front of an open door with two officers outside the cell. The prisoner was frequently inspected by health-care professionals. On 14 April 2018, the prisoner 'delivered' nine packages containing euphoriant drugs and was subsequently CT scanned at the hospital, where it was found that everything had come out.*

*As can be seen, the prisoner was frequently inspected by health-care staff, which is an integral part of the body-packer guidelines.*

*In the Copenhagen Prisons Institution – of which Blegdamsvejens Prison is organisationally a part – body-packers are as a starting point placed in an observation cell in Vestre Prison's observation and security cell section. If the prisoner meets the conditions for placement in a security cell, the person in question will be placed there. When placed in an observation or security cell, a permanent guard is assigned by prison staff.*

*Prisoners suspected of concealing illegal drugs or mobile phones in the rectum/vagina are offered a (voluntary) recto/vaginal examination by a medical doctor. Prisoners are also informed about any health problems by hiding narcotics in the body. If, in a specific medical assessment, the amount and nature of the substance ingested is found to create a risk of acute poisoning, the prisoner will be offered examination and hospitalisation. If the prisoner does not want to be examined/admitted to a hospital, a medical/nursing plan is drawn up for observation of the prisoner.*

*The Prison and Probation Service, Capital Region, has also stated that the health-care staff do what they can to ensure that body-packers are not placed in a prison, but in a hospital, which is why it is very rare to have body-packers placed in Vestre Prison.*

*The Department of Prison and Probation Service refers to the information provided.*

### **Paragraph 92 in CPT's report**

#### **CPT's observation concerning paragraph 92:**

- The CPT recommends, once again, that steps be taken along these lines in the light of the above comments.

*The Department of the Prison and Probation Service can advise that there is strong focus within the Prison and Probation Service on preventing self-harming behaviour among the prisoners. A prisoner may pursuant to section 64(1) of the Criminal Enforcement Act be placed in an observation cell if special observation is required. This can be done, among other things, in order to prevent self-harm.*

*If, after a specific assessment in the individual case, it is estimated that there is a risk that a prisoner who is placed in an observation cell will do harm to himself, the prison pursuant to section 20(2) of the Executive Order on exclusion from community has to undress so that the clothes cannot be used for self-harming behaviour. The prisoner must, if necessary in this case, be asked to undress himself. The undressing entails that the prisoner must, as a minimum, wear the institution's underpants or a blanket. If the prisoner is only wearing underwear, the prisoner will be offered a blanket.*

*When the risk of self-harm has decreased sufficiently, the prisoner must have his own clothes back.*

*On the basis of the Committee's report, the Department of the Prison and Probation Service has emphasised to the institutions visited that, in accordance with the rules, changing of clothes may only take place when it is deemed necessary in the individual case.*

*The Prison and Probation Service has no current plans to introduce new measures in this area, here-under clothes that cannot be torn apart. However, the Prison and Probation Service continuously monitors the experiences within this area in relevant countries to assess whether such experiences can possibly be used in the Prison and Probation Service.*



## **Paragraph 97 in CPT's report**

### **CPT's observation concerning paragraph 97:**

- In the light of the above, the CPT recommends that the Danish authorities put an end to the practice of fixation in prisons for security reasons.
- Pending the full implementation of this recommendation, steps should be taken to ensure that, in all prisons in Denmark, fixation is only 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 satisfactorily to contain those risks. Further, the duration of fixation should always be for the shortest possible time (usually minutes rather than hours); fixation for periods of hours or days cannot have any justification.

*Placement in a security cell with compulsory fixation is one of the most intrusive security measures that can be used against prisoners. According to the rules, placement in a security cell – and possibly fixation – may only be used if, for example, it is necessary to prevent threatening violence or prevent the prisoner from harming himself. It follows from the rules that placement in a security cell must take place as gently as possible and for the shortest possible period of time.*

*As this is a very intrusive means of force, prisoners who have been placed in a security cell have the right to complain to the Department of Prison and Probation Service about the decision.*

*In the opinion of the Department of Prison and Probation Service it will not be entirely possible to avoid placing prisoners in a security cell. However, there is ongoing focus on limiting the number of placements in security cells, including the use of belt fixation. There is also focus on the length of the placement and on the application of belt fixation being as short as possible.*

*In this connection, it can be advised that after an internal administrative audit in 2018, a checklist was prepared which in a short and easy-to-understand form reviews the rules for handling of cases regarding placement in a security cell. Training of the staff has subsequently been carried out with special focus on documentation of the duration of the placement and fixation.*

*Furthermore, in August 2018 the Prison and Probation Service's institutions were given further guidance on the basis of a specific case concerning a death in connection with placement in a security cell with fixation on how to prevent the risk of blood clots as a result of prolonged fixation.*

*In addition, locally in the institutions there is special focus from the management on security cell placement, just as the Department of the Prison and Probation Service reviews all cases where a prisoner has been placed in a security cell with fixation for more than 24 hours.*

*It appears from section 45 of the Criminal Enforcement Act that prisoners have the right to medical treatment and other health-care treatment. It is therefore part of the general supervision of the prisoners that the staff is conscious of whether a prisoner is showing symptoms of mental illness. If there is a suspicion of serious mental illness such as psychosis or schizophrenia in a prisoner, the person in question will be admitted to a psychiatric hospital for examination and treatment. However, there may be mentally ill prisoners in the institutions under the Prison and Probation Service who are waiting for a place in a psychiatric hospital.*

*As can be seen, the Prison and Probation Service is generally paying close attention to limiting the use of security cells, and the Prison and Probation Service will continue to closely monitor developments in this area and take relevant initiatives if deemed necessary.*

### **Paragraph 98 in CPT's report**

CPT's observation concerning paragraph 98:

- In the CPT's view, the doctor should always visit a prisoner placed in a security cell. Moreover, any use of fixation, and its prolongation, should systematically be by order of a doctor or be immediately notified to a doctor, who should visit all prisoners who have been fixated.

*The Department of the Prison and Probation Service can advise that according to section 66(5) of the Criminal Enforcement Act, the institutions must, when fixating a prisoner in a security cell, immediately request a medical doctor to supervise the prisoner. The medical doctor must see the person in question, unless the medical doctor, on the basis of a medical assessment, deems that such supervision is clearly unnecessary.*

*The competence to decide on placement in a security cell lies with a section manager, unit manager or head of unit in the institution.*

*As stated above with regard to section 84, the content of the stipulations in Chapters 10 and 11 (concerning intervention and solitary confinement) in the Criminal Enforcement Act is in line with the fact that Denmark has chosen to make a reservation with respect to rule 43.2 of the European Prison Rules. It follows from rule 43.2 that prisoners placed in solitary confinement must be seen daily by a medical doctor or nurse. Notwithstanding the fact that the comments to this provision state that such daily visits by health-care staff shall in no way be regarded as an acceptance or legitimation of a decision to place or keep a prisoner in solitary confinement, Denmark has made a reservation to the rule, as mandatory supervision by a medical doctor, etc. gives rise to serious medical ethical concerns as it could be perceived by the prisoner as a medical legitimation of the procedure and its maintenance, thus leaving doubts about the division of responsibilities between the health-care staff and the prison management.*

*For the purpose of answering this paragraph, the Department of the Prison and Probation Service consulted all areas within the Prison and Probation Service regarding the question of calling for a medical doctor in connection with security cell placement, including fixation. It appears from this that there are generally no problems with obtaining contact with a medical doctor in connection with placement in a security cell, but that, in accordance with the rules, it is the medical doctor's decision whether a physical visit is to be carried out.*

### **Paragraph 99 in CPT's report**

CPT's observation concerning paragraph 99:

- The CPT recommends that the necessary steps be taken to guarantee that the texts governing the use of pepper spray are correctly applied in Storstrøm Prison and indeed throughout Denmark's prisons. It should also be ensured that all cases in which pepper spray is deployed are systematically recorded as such in the establishments concerned and reported (with the sending of a written report) to the Prison and Probation Service.

*The Prison and Probation Service has strong focus on the fact that pepper spray may only be used when necessary and that the guidelines for use are complied with. Thus, in the autumn of 2018, an administrative audit was carried out with a view to examining whether the staff have sufficient knowledge of the rules. The result of the audit was submitted to the Prison and Probation Service's group management at the end of April 2020, and they have decided that a number of initiatives must be launched, hereunder training of staff and preparation of new guidance material.*

*The Department of the Prison and Probation Service can advise that any use of force, including the use of pepper spray, is recorded in the Prison and Probation Service's client system. This means that the specific cases can be identified and that overviews and statistics can be prepared within the individual case areas. It appears from the specific cases when the use took place and what the reason for the use was. As it is possible to access all cases in the client system, the Department of the Prison and Probation Service assesses that the Committee's recommendations are already being met.*

### **Paragraph 100 in CPT's report**

#### **CPT's observation concerning paragraph 100:**

- The CPT recommends that the Danish authorities take the necessary measures to remedy these shortcomings.

*The Department of the Prison and Probation Service can advise that any use of force, including handcuffs, is recorded in the Prison and Probation Service's client system. This means that the specific cases can be identified and that overviews and statistics can be prepared within the individual case areas.*

*It appears from the specific cases when the use took place, what the reason for the use was, what the circumstances of the case was and whether the prisoner wanted a medical doctor and/or the staff found it necessary to call a medical doctor.*

*Therefore, the Department of the Prison and Probation Service assesses that the Prison and Probation Service complies with the Committee's recommendation that the use of force and handcuffs in the Prison and Probation Service's institutions must be recorded in a specially designed recording system.*

*Attention must, however, be drawn to the fact that it cannot be ruled out that there may be individual cases which due to human error are not recorded correctly in the client system. On the basis of the*

*report from the CPT, the Department of the Prison and Probation Service will therefore, for the sake of good order, ask the institutions to make sure that all documentation is recorded correctly.*

### **Paragraph 101 in CPT's report**

#### **CPT's observation concerning paragraph 101:**

- The CPT recommends that the Danish authorities take the necessary measures to ensure that, in all Danish prisons, the resort to strip searches is based on an individual risk assessment and carried out in a manner respectful of human dignity.

*The Department of the Prison and Probation Service can advise that as a result of the Minister of Justice's policies to combat illegal mobile phones in, inter alia, closed prisons and remand prisons, the Prison and Probation Service in June 2016 introduced security classes and strip search standards. In this connection, the prisons and remand prisons were divided into four security classes with associated strip search standards. The individual prisoners are thus individually assessed and placed in the security class/institution that is found appropriate in relation to order and security.*

*The strip search standards are assessed on an ongoing basis, and in June 2017 it was decided, among other things, to adjust the strip search standard for routine strip searches in open and closed prisons and add a security recommendation regarding risk-based strip searches. As a result, prisoners are strip searched fewer times, for example, prisoners are no longer strip searched by default when cell visits take place. In addition, strip searches of prisoners are no longer performed on the persons themselves when they return from work and yard time. Instead, a detection takes place, i.e. the prisoner, fully clothed, passes through a detector frame and/or an MSD detector.*

*It is the view of the Prison and Probation Service that the strip searches are carried out in a humane respectful manner.*

*Strip searches may not be carried out if, according to the purpose of the intervention and the violation and discomfort that the intervention must be assumed to cause, it would be a disproportionate intervention, just as searches must be carried out as gently as the circumstances allow, cf. section 60(4) and (5) of the Criminal Enforcement Act,. Furthermore, it follows from section 60(6) of the Criminal Enforcement Act that examinations requiring undressing may only be carried out and attended by persons of the same gender as the prisoner, unless they are health-care staff.*

*Especially for prisoners in an observation cell, it applies that an examination of the prisoner's person is only carried out if it is deemed necessary, cf. section 20(2) of the Executive Order on exclusion from community.*

*For reasons of order and security, examination of prisoners takes place in accordance with section 60(1) of the Criminal Enforcement Act, i.e. basically fully undressed.*

*The Department of the Prison and Probation Service does not consider it safe to let prisoners keep parts of their clothing on during a strip search, as proposed by the Committee. Instead, the strip search is carried out in such a way that prisoners are fully undressed for the shortest possible time. The staff ensure that prisoners get their inner clothing back as soon as possible after the end of the strip search.*

*At the Police Headquarters' Prison, it can be advised about strip searches that the prisoners are in the highest security class and the vast majority of the prisoners who are handled under this regime are considered to be particularly dangerous to other persons. All prisoners at the Police Headquarters' Prison are therefore handled with the utmost security focus, also in connection with strip searches.*

*Regarding systematic strip search in the four closed institutions that the Committee visited, it can be stated that visits are considered to be a very large source of smuggling of illegal effects. Systematic strip search is considered crucial to minimise this risk.*

*Based on this, the Prison and Probation Service does not currently see any reason to make changes to rules or practices.*

### **Paragraph 105 in CPT's report**

#### **CPT's observation concerning paragraph 105:**

- Pending the availability of this tool, the CPT recommends that, in addition to the daily/weekly programmes, the house rules be distributed to all prisoners (both remand and sentenced, in all the prisons in Denmark) upon their admission. These rules should describe in a straightforward manner the main features of the prison's regime, prisoners' rights and duties, complaints procedures, etc., and be translated into an appropriate range of foreign languages. Further, information should be provided (e.g. notices should be posted) each time there are amendments to such rules.
- Further, the CPT wishes to receive updated information about the information web-based tool developed for prisoners by the Danish Prison and Probation Service.

*The Department of the Prison and Probation Service has obtained a statement from the Prison and Probation Service, Zealand, Capital Region and Southern Denmark, to which Storstrøm Prison, Blegdamsvejens Remand Prison and Odense Remand Prison belong.*

*The Prison and Probation Service, Zealand, has stated that leaflets on sentence serving conditions and rules are handed out in connection with the admission procedure in both prisons and remand prisons. The information can be found on the intranet in several different languages. In relation to house rules, these are available in English and German. In addition, the staff have advised that they use various translation tools and primarily telephone interpretation.*

*The Prison and Probation Service, Capital Region, has stated that Vestre Prison has house rules in Danish, English, Arabic, Romanian and Kurdish. In addition, Vestre Prison has daily programmes*

*in Danish and for specific wards also in English. Also, there is a special youth programme for young prisoners (15-17-year olds). The youth programme is available in Danish, English, Arabic, French and Romanian.*

*The Police Headquarters' Prison has house rules in Danish. In addition, the prison has daily programmes in Danish and English.*

*Blegdamsvejens Remand Prison has house rules in Danish. The remand prison also has daily programmes in Danish and English.*

*Upon arrival, the staff conducts an admission interview with the prisoner, where the person in question is orally informed about the daily programme and the house rules. If the prisoner expresses a wish to have it in writing, the staff hand out the house rules/daily programme to the prisoner.*

*The Prison and Probation Service, Capital Region, has also stated that the Copenhagen Prisons Institution has prepared a leaflet describing the prisoners' rights and duties in connection with sentencing to solitary confinement. The leaflet, which is handed out to the prisoner in connection with the holding of interrogations, has been translated into English, Arabic and Romanian.*

*The institution's house rules, etc. are updated regularly, as needed.*

*The Prison and Probation Service, Southern Denmark, has stated that all prisoners are informed about the house rules at the admission or within 24 hours of the admission. The Prison and Probation Service, Southern Denmark, has also advised the following:*

*Renbæk Prison: All prisoners are handed 'Orientation to prisoners' by the admission officer.*

*Esbjerg Remand Prison: House rules are handed out at the time of admission, and in the event of changes, new house rules are handed out.*

*Søbysøgaard Prison and Ringe Prison: In connection with new admissions, the staff follows an admission procedure, where prisoners are informed about the house rules and are otherwise introduced to daily life of the prison. In the event of changes in the house rules, the prisoners are informed both orally and electronically. Spokespersons' meetings are held for information on major changes, just as the house rules are available on a 'computer' – a box with a screen that the prisoners can access during all 'waking' hours. Information about changes is supplemented with notices on the respective wards' notice boards. In Ringe Prison, all prisoners are handed the house orders upon admission to the prison. It is available in six languages in addition to Danish.*

*Odense Remand Prison: The house rules are available in Danish and English. On an everyday basis, Prison Translate is used, which is available in two languages on the remand prison's team site. The house order is handed out to the prisoners upon admission.*

*Svendborg Remand Prison: Prisoners are given a 'starting envelope' which contains the house rules. The start envelope exists in a Danish and an English version. If prisoners do not speak Danish or English, staff use Prison Translate or Google Translate.*

*Haderslev Remand Prison: An admission interview is held within 24 hours, where prisoners will be made aware of the house rules and applicable daily rules. In the event of changes in the house rules, the prisoners are made aware of this by posting it on the wards' notice boards.*

*Kolding Remand Prison: An admission interview is held with prisoners, where the prisoner is given a copy of the house rules as well as the opportunity to ask questions about them.*

*Sønderborg and Åbenrå Remand Prisons: Upon admission/incarceration, the prisoner is informed about the house rules. The house rules are also available at the ward and can be handed out to the person in question.*

*Vejele Remand Prison: An information leaflet is handed out to all new prisoners in the remand prison.*

*Sdr. Omme Prison: A leaflet with the prison's house rules is handed out to all new prisoners. In the event of major changes, each prisoner is informed in writing. In the case of minor changes and initiatives, this is done through communication with the spokespersons in each ward.*

*Nyborg Prison: Information about house rules etc. is given as a part of the admission interview. The house rules are available in the cell, and changes are posted on the bulletin board and communicated at spokespersons' meetings.*

*The Department of the Prison and Probation Service refers to the information provided and can add that it should be noted that it appears from section 31(1) of the Penal Enforcement Act that a prisoner after admission to the institution as soon as possible must be instructed about his rights, duties and other circumstances during the enforcement of the sentence. The Department of the Prison and Probation Service finds that prisons' and remand prisons' above-described information and guidance for providing information to the prisoners about their rights and obligations in an appropriate manner satisfies the obligation in section 31(1).*

*In relation to the image-based information system, the Department of the Prison and Probation Service can advise that no specific time has yet been set for the completion of the project, but that it is still expected that the tool's basic elements will be ready for use during 2020. The tool is expected to be expanded over time by adding more languages. Attention is drawn to the fact that this is information primarily about day programmes, etc. The system cannot replace house rules but can contribute to a general understanding of what applies to the stay.*

### **Paragraph 106 in CPT's report**

#### **CPT's observation concerning paragraph 106:**

- The CPT recommends that information about the complaints procedures available, and the fact that access to the complaints bodies is confidential, be provided to all prisoners (both remand and sentenced, in all the prisons in Denmark) upon their admission.

*The Department of the Prison and Probation Service can advise that it has informed the institutions within the Prison and Probation Service about the importance of all prisoners receiving the leaflets 'Information about arrest and remand custody' and 'Information on serving a prison sentence', and that the internal house rules are also easily accessible to all prisoners in the institutions.*

*In connection with the next revision of the above-mentioned leaflets, the Department of the Prison and Probation Service will ensure that the section on complaints possibilities is updated with information that the prisoners' access to complain is subject to confidentiality, which means that it must be possible to file a complaint without the intervention by prison staff.*

### **C. Foreign nationals held under aliens legislation**

#### **Paragraph 108 in CPT's report**

##### **CPT's observation concerning paragraph 108:**

- In this context, the CPT would like to be informed whether administrative detention of migrants is also implemented in prisons.

*Detained migrants can be placed in the Ellebæk Detention Centre, in the Nykøbing Falster Holding Centre which is only used for detained migrants and in Åbenrå Remand Prison. The detention of migrants in Åbenrå Remand Prison takes place in the so-called asylum places in Åbenrå Remand Prison, where there are 10 special places in an independent building, which is used for detained migrants, cf. section 36 of the Aliens Act.*

*It may to a limited extent occur that detained migrants, quite exceptionally and for a limited period – typically a few days – are placed in a remand prison, including Vestre Prison, until they can be transferred to an asylum centre. In this case, the detained migrants are kept separate from ordinary prisoners in the institution.*

*It shall be noted that the Prison and Probation Service due to the prison population has decided to transform Nykøbing Falster Holding Centre during September 2020 back to a local prison. Accordingly, the Prison and Probation Service has initiated a process of transferring the administrative detained migrants to Ellebæk Detention Centre. In this regard, it is noted that there is currently unused capacities at Ellebæk Detention Centre.*

#### **Paragraph 110 in CPT's report**

##### **CPT's observation concerning paragraph 110:**



- Nevertheless, given their particular vulnerability, the CPT wishes to stress that any form of deprivation of liberty may have a detrimental effect on the physical and mental development and well-being of minors. In this regard, the Committee observes an increasing trend at the European and international level to promote measures to stop immigration detention of minors.

*The Danish policy towards immigration detention of children in general is that detention of children should only be used in exceptional cases, as a measure of last resort and for the shortest time possible.*

*The Aliens Act implicitly allows minors to be administratively detained as there is no distinction between adults and minors in the wording of the law. However, since 2016, detention of unaccompanied children and separated children has as a rule not been applied.*

*The Danish government has no current plans of implementing any policy changes regarding immigration detention of minors.*

### **Paragraph 111 in CPT's report**

#### **CPT's observation concerning paragraph 111:**

- The CPT would like to receive updated information on the progress made concerning the construction of the additional accommodation buildings.

*The Prison and Probation Service can confirm that it has been decided that 56 extra places will be established at the Ellebæk Detention Centre in the form of a pavilion solution. This is done to adapt the capacity to house detained asylum seekers in accordance with the current needs.*

*Also, additional capacity will be established for visits, employment and similar common facilities.*

*The building will be erected adjacent to the existing building 64 on the area between the parking area and the football field.*

*It can be added that the project was put out to tender with intended commissioning by the end of March 2020. The Prison and Probation Service did not receive sufficient, suitable bids, and as a result the project was re-tendered at the beginning of January 2020 with a schedule shift. It was the expectation that the expansion could be completed by the end of 2020, but due to the Covid-19 situation, the completion is now expected to be postponed until the beginning of 2021.*

### **Paragraph 113 in CPT's report**

#### **CPT's observation concerning paragraph 113:**

- This is unacceptable.

*Administrative detention is the last resort, but none the less a necessary measure that is only applied when less coercive measures are not deemed sufficient. Several foreign nationals are staying in Denmark illegally and refuse to cooperate with the Danish authorities on their return or on participating in the processing of their asylum case etc.*

*The use of detention must always be in accordance with national law and Denmark's international obligations.*

*The purpose of an administrative detention is to prevent absconding or to motivate the foreign national to cooperate on their return or their case. When the purpose is to motivate cooperation the detained foreign national will – as a general rule – be able to bring the detention to an end by cooperating with the authorities.*

*The Danish Government acknowledges that persons detained under the Aliens Act must be offered reasonable conditions appropriate to their legal situation.*

*The Department of the Prison and Probation Service can advise that the Ellebæk Detention Centre and Nykøbing Falster Holding Centre house detained migrants pursuant to the Aliens Act, cf. paragraph 109 of the report. Pursuant to section 37 b of the Aliens Act the migrants are during the detention not subject to other restrictions regarding their freedom than what is the purpose with the detention and the maintenance of order and security at the institutions.*

*Both the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre are characterised by special external security in the form of e.g. security fences, walls, secured courtyard areas and camera surveillance of outdoor areas.*

*This is in order to secure the detention which means that the detainees are not allowed to leave the institution.*

*Based on a security assessment, the Department of the Prison and Probation Service finds that it is impossible to make adjustments to the external security without increasing the risk of evasion.*

*In addition, the Department of the Prison and Probation Service inform that, in contrast to what applies to criminal prisoners, there are no similar restrictions on the detainees' access to community time with each other. Thus, the detained migrants in the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre are at no time locked inside their living quarters.*

### **Paragraph 114 in CPT's report**

#### **CPT's observation concerning paragraph 114:**

- The CPT would like to be informed about the outcome of these investigations.

- The CPT recommends that the Danish authorities send a strong reminder to custodial staff at Ellebæk Detention Centre that all detained migrants are to be treated with respect and that all forms of ill-treatment, including verbal abuse, are unacceptable and will be sanctioned accordingly. It should further be made clear that if a detainee is agitated, no more force than strictly necessary should be used to bring him/her under control.

*The CPT has stated that during its visit to the Ellebæk Detention Centre, the delegation received a complaint from a detainee about excessive use of force. Furthermore, the Torture Committee has stated that during the same institutional visit, the delegation received several complaints about derogatory verbal statements by staff, including racist remarks.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs organisationally, has informed the Department of the Prison and Probation Service that the specific case in which a detainee in the Ellebæk Detention Centre informed the delegation from CPT that he had been subjected to unnecessary use of force two days before the visit, has been investigated.*

*The Prison and Probation Service, Capital Region, has advised that a senior employee at the Detention Centre in April 2019, after the CPT's visit, had a conversation with the detained migrant about his statements to the delegation. To the delegation, he had explained that he had been pushed by the staff. During the conversation with the senior employee, his explanation was that he had been beaten by an employee.*

*The health-care staff of the Detention Centre have also been asked if they have had contact with the detainee. The health-care staff have stated that they have at no time been contacted by the detainee about any injuries in connection with violence on the part of the staff.*

*In continuation of this, the senior employee had a conversation with the prison officer who, according to the detainee, had pushed or beaten him. The prison officer stated that the detainee had been testing the boundaries in relation to the staff on the day the episode, according to the detainee, had taken place. At no time, however, had there been a need to use force against the detainee, so the prison officer could not recognise the detainee's presentation.*

*The other officer, who according to the detainee had been present during the episode, has been identified by the management of the Detention Centre. However, no interview has been held with this officer due to prolonged sick leave.*

*On the basis of the above-mentioned investigation, the Detention Centre has overall assessed that there is no basis for further action in connection to the detainee's claim, which the Prison and Probation Service, Capital Region, agrees with.*

*The Prison and Probation Service, Capital Region, has also investigated whether there have been cases of derogatory or racist remarks directed at or about the detainees by the staff.*

*In this connection, a senior employee of the Ellebæk Detention Centre has spoken to several detainees and employees without finding concrete examples of statements of a derogatory or racist nature.*

*However, the Detention Centre found that in some cases there may have been linguistic misunderstandings between staff and detainees.*

*Against this background, the Ellebæk Detention Centre has now increased the focus on the challenges that linguistic misunderstandings can entail in everyday life.*

*The Department refers to the Prison and Probation Service, Capital Region's statement and can otherwise refer to the comments under paragraph 31 regarding the Prison and Probation Service's efforts regarding prevention and handling of conflicts.*

### **Paragraph 118 in CPT's report**

#### **CPT's observation concerning paragraph 118:**

- The CPT trusts that the meals offered to detained migrants take into account their religious requirements and dietary habits. Consideration should further be given to providing detained migrants at least occasionally the possibility to cook their own food.

*The Department of the Prison and Probation Service can inform that detained migrants in the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre are not covered by the scheme for self-catering in prisons and remand prisons, which is the reason why they receive catering from the central scheme where all meals are supplied through the institution, cf. below.*

*The detailed rules on catering for prisoners who are not covered by the above-mentioned self-catering scheme are set out in Circular No. 9301 of 4 May 2015 on catering for prisoners who are not covered by the self-catering scheme.*

*It appears from section 3 of the Circular that a vegetarian diet can be offered to the prisoners. Pursuant to section 4 the prisoners can be offered a diet according to the medical doctor's instructions regarding e.g. diabetes or other forms of disease that require a specially adapted diet. Section 5(1) stipulates that when preparing and handing out meals, the prisoners' special religious beliefs must to the extent possible be taken into account. Section 5(2) further stipulates that during religious fasting periods, where prisoners fast between sunrise and sunset, the institution should to the extent possible organise the meals so that the prisoners, if the fasting period falls during the summer months, when it is daylight for a long time, can get packed lunches or similar which can be consumed after sunset or before sunrise, and thus at a time when food is not normally distributed in the institutions.*

*The Prison and Probation Service, Capital Region and Zealand, have stated that the above rules are complied with at both the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre.*

*Regarding the possibility for detained migrants to occasionally prepare their own food at the Ellebæk Detention Centre, it can be stated that the Detention Centre does not have kitchen facilities that make this possible.*

*The Ellebæk Detention Centre has hired three pedagogical assistants who once a week – as a social activity – prepare a hot lunch with a small group of detainees and then invite the rest of the ward to a joint meal. The offer to participate in the activity alternates between the wings and takes place in the activity centre's kitchen.*

*So far, Ellebæk Detention Centre has not offered a supplementary packed lunch in relation to religious fasting periods, where prisoners fast between sunrise and sunset, but the Detention Centre introduces this henceforth.*

*As far as Nykøbing Falster Holding Centre is concerned, the Centre does not have kitchen facilities that allow the detained migrants to occasionally prepare their own food.*

### **Paragraph 119 in CPT's report**

#### **CPT's observation concerning paragraph 119:**

- The CPT recommends that the Danish authorities take steps at Ellebæk Detention Centre and at Nykøbing Falster Holding Centre to ensure that the detained migrants' daily entitlement to outdoor exercise be increased in the light of the above remarks.

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that all detainees in the Ellebæk Detention Centre previously (and until the end of March 2020, cf. below) have had access to outdoor areas for one hour daily. Thus, there has been no scheme in which parts of the Centre's detainees only had access to 30 minutes of outdoor stays, as stated in the report. Meanwhile, the Detention Centre has had smaller, secured outdoor areas built at each ward, so that all detainees now have free access throughout the day. Use of these new outdoor areas started at the end of March 2020.*

*The Prison and Probation Service, Zealand, to which Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that the detainees have free access to outdoor areas for 7-12 hours daily, depending on the season.*

*Reference is also made to the answer below regarding paragraph 123, in which the possibilities for physical activities are described in more detail.*

### **Paragraph 120 in CPT's report**

#### **CPT's observation concerning paragraph 120:**

- The CPT trusts that these plans will be implemented without delay.

*The Prison and Probation Service, Capital Region, to which Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that the construction of a shelter was*

completed in mid-June 2020. The shelter's canopy is located above the two courtyard areas, so it does not prevent ball games or security surveillance.

### **Paragraph 123 in CPT's report**

#### CPT's observation concerning paragraph 123:

- The CPT therefore recommends that the Danish authorities take steps at Ellebæk Detention Centre and at Nykøbing Falster Holding Centre to ensure that detained migrants are offered a wider range of purposeful activities (e.g. language and IT-classes, gardening, arts and crafts, cookery skills, so called 'cultural-kitchens').
- Further, detained migrants should have access to computers with at least basic Internet access and have access to appropriately equipped and clean communal rooms.

#### Activities

*The Prison and Probation Service, Zealand, to which Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that the Nykøbing Falster Holding Centre was opened temporarily to relieve pressure on Ellebæk, but has now been in use for approx. 1½ years, as the capacity expansion in Ellebæk has not yet been completed. It has always been assumed that detainees should only be placed in the Nykøbing Falster Holding Centre if it was a matter of short-term stays, and therefore no activities were established for them. For longer stays the detainees placed in Nykøbing Falster Holding Centre should be moved to Ellebæk, where there is the possibility of some activities. In the Nykøbing Falster Holding Centre, the detainees are activated by the leisure activities that are made available.*

*Detained migrants in the Nykøbing Falster Holding Centre have access to common areas which among other things contain fitness room, activity rooms and outdoor areas (courtyard area). In April 2019, the fitness room was renovated and equipped with exercise equipment. In the autumn of 2019, an activity room was established, which is equipped with table football and several different board games as well as a larger wall-hung TV. There is also a TV in all living rooms (cells).*

*As stated regarding the answer to the recommendation in paragraph 117, the outdoor area has been painted and weeds have been removed from the flowerbeds. The flowerbeds are kept neat and tidy. Maintenance of flowerbeds is an activity that detained migrants are very welcome to participate in.*

*In addition, there are activities in collaboration with NGOs.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that as of 1 December 2019, three pedagogical assistants have been employed at the Ellebæk Detention Centre. This has meant that the offer of leisure activities for the detainees in Ellebæk has improved significantly.*

*In addition to offering cooking in the activity centre's kitchen once a week, cf. paragraph 118, it has become easier for the detainees to use the Detention Centre's library, which offers books in different languages and several board games. In addition, music games have also been introduced as an activity offer for the detainees. Football and to some extent cricket are popular activities, which are offered several times a week and which complement the access to the gym. The pedagogical assistants also help the detainees with shopping in the centre's grocery store twice a week.*

*The Prison and Probation Service, Capital Region, has also stated that the activities take place in the hobby workshop, the activity area in building 64, in the gym and, in the summer, in the outdoor ball field. The activities are scheduled so that the detainees know which days of the week the various activities take place and can sign up.*

*At present, only the men in building 17 and 18V as well as the women in building 64 have access to common areas with tables and sofas in their own buildings. This is due to the fact that the common areas in the other buildings have been converted into occupancy rooms.*

*The Department refers to what the Prison and Probation Service, Zealand, and the Prison and Probation Service, Capital Region, have stated above.*

#### Internet Access

*The Department can inform that the Prison and Probation Service's secure PC network for educational purposes (SK network) was temporarily suspended for security reasons in April 2018. The Department of the Prison and Probation Service has in January 2020, in cooperation with the Ministry of Justice and the Security and Intelligence Service (PET), decided to reopen the SK network. In connection with the reopening, a number of safety adjustments will be made regarding the use of the SK network.*

*The reopening of the SK network will offer the detained migrants at the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre limited access to the internet, as there will only be access to websites that have been pre-approved by the Prison and Probation Service. In this connection, it is noted that these will primarily be Danish websites with a focus on education. There are currently no plans to expand the number of websites that can be accessed via the SK network.*

*With regard to the question of a possible free access to use the internet without restrictions for detained migrants at the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre, the Department finds that such access will constitute a significant security risk as, in the opinion of the Department, this can be used by a detained migrant, e.g. through contact with one or more persons outside the institution, to receive information through live video streaming and audio for the purpose of coordinating an impending or ongoing escape or smuggling. It is the Prison and Probation Service's assessment that there is not the same risk associated with contact with the outside world via the permitted access to make use of calling cards from the card telephones installed in the occupancy wards in the institutions in question, cf. on paragraph 130 below.*

### **Paragraph 125 in CPT's report**

#### **CPT's observation concerning paragraph 125:**

- As regards the right of access to a lawyer as from the very outset of deprivation of liberty, reference is made to the recommendation made in paragraph 18.

*The conditions for detention of an alien are set out in Section 36 of the Aliens Act, whereas the legal procedures and procedural safeguards are described in Section 37.*

*Pursuant to Section 37(1), an alien who has been detained under Section 36 must, if he has not been released before then, be brought before a court of justice within three full days from the commencement of the detention, and the court must rule on the lawfulness of the detention and its continuation.*

*According to Section 37(2), the court must appoint counsel to assist the alien. The date and hour when detention was commenced and when the alien was brought before the court must be registered in the court records.*

*Section 37 (3) stipulates that the court must make its decision by an order, against which an interlocutory appeal may be lodged under the rules of Chapter 37 of the Administration of Justice Act. If the alien is detained at the time of the decision and if it is found lawful, the court order must determine a time limit for continued detention. This time limit may later be extended by the court, but not by more than four weeks at a time. If the decision to detain the alien later turns out to be unlawful, compensation may be granted according to the level of compensation pursuant to Chapter 93 a of the Administration of Justice Act.*

*The local Danish police departments will upon request see to arrange contact between an alien and a lawyer within the first 72 hours of detention. Furthermore, a foreigner who is deprived of liberty pursuant to Section 36 is not subject to letter and visit control and is therefore always allowed to contact the outside world, including a specific lawyer. This can be done e.g. by using the telephones available at Ellebæk Centre for Foreigners and Nykøbing Falster Holding Centre.*

*The Ministry of Justice fully agrees with the CPT on the importance of ensuring the detainee's right to consult an attorney, and it is the opinion of the Ministry of Justice that the abovementioned provisions ensure the detainee's right in this regard.*

*Following the remarks from CPT, the Danish National Police will stress the importance of complying with the abovementioned rules via-à-vis the Danish police districts.*

### **Paragraph 126 in CPT's report**

#### **CPT's observation concerning paragraph 126:**



- The CPT would like to receive confirmation that all detained migrants are provided with a copy of the detention order, including a comprehensive statement on the individual grounds for detention and detailed written information of the modalities to lodge a complaint. Migrants who do not understand Danish should further receive in writing at least a summary of the detention order as well as information on the next procedural steps, in a language they understand.

*As mentioned above, the conditions for detention of an alien are set out in Section 36 of the Aliens Act, whereas the legal procedures and procedural safeguards are described in Section 37.*

*It follows from Section 37(4) of the Aliens Act, that when detention of an alien is commenced, the police must inform the alien in writing of the right to have appointed counsel (Section 37(2)) and the right to have the detention brought before a court of justice (Section 37(1)) in a language which the alien understands or may reasonably be assumed to understand.*

*Additionally, it follows from Section 37(4) that the police must furthermore inform the alien of the right to contact the diplomatic or consular representation of the country of origin or, if the alien applies for a residence permit under Section 7 (asylum), the right to contact a representative of the Danish Refugee Council.*

*Pursuant to Section 37(7), a decision of detention under Section 36 and continued detention must be communicated in writing. The provision further states, that when commencing a detention related to transfers according to the Dublin Regulation (Section 36(1), the second sentence), the police must give the alien a written translation of the key elements of the decision in a language that the alien understands or may reasonably be assumed to understand.*

*The police has informed the Ministry of Justice that regarding foreigners detained under the Danish Aliens Act in accordance with Section 36, the police always provides the alien with oral information and guidance in a language the alien understands at the very outset of the deprivation of liberty. This entails an oral explanation on the specific grounds for detention under the different paragraphs pursuant to Section 36. Hereby the alien is also informed that the court will decide on the legality and the continued upholding of the detention, if the alien is not released within 72 hours. The alien is also informed on the right to legal assistance and appointment of a lawyer in connection with the court proceedings, that he or she has the right to contact the representation of his country, and that he or she (if being an asylumseeker) has the right to contact the Danish Refugee Council.*

*When it comes to aliens detained in order to secure rejection and transfer under the Dublin Regulation the police will also provide the alien with a standard form that has been translated into 10 languages. If the foreigner speaks a language to which the form has not been translated, an interpreter will provide the alien with oral information and guidance.*

*However the police has informed the Ministry of Justice that other aliens detained in accordance with Section 36 of the Aliens Act only receives a standard form in Danish as addition to the oral information and guidance about detention in accordance with Section 36 provided by an interpreter.*

*On that background, The Ministry of Justice has requested the police to ensure, that other aliens detained in accordance with Section 36 of the Aliens Act henceforward are also provided with written information in accordance with Section 37 (4) in a language which the alien understands or may reasonably be assumed to understand.*

*If the legality and the continued upholding of the detention is tried by the court the alien's appointed counsel is given a copy of the ruling in Danish.*

### **Paragraph 128 in CPT's report**

#### **CPT's observation concerning paragraph 128:**

- The Committee trusts that the written information distributed to all newly arrived migrants at both establishments in a language they understand will include full information on their situation, their rights and the procedures applicable to them, including disciplinary procedures and information on how to make complaints. Also, the addresses of all relevant internal and external complaint bodies should be made available.
- In addition to the written information provided, all newly arrived detained migrants should:
  - be verbally informed (including by an electronic device), in a language they understand, of all above-mentioned rights and procedures and
  - be requested to confirm in writing that they have been informed of their rights in a language they understand.
- Translation and interpretation services should be made available as required.

*The Prison and Probation Service, Zealand, to which the Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that in the autumn of 2019 an information leaflet was prepared for the detained migrants at the Nykøbing Falster Holding Centre regarding their stay in the institution.*

*The leaflet was first used in October 2019 and is today handed out to all detained migrants in connection with their admission to the Centre. In the leaflet, the detained migrants can, among other things, find information about proceedings, complaints, the appointment of a lawyer and procedures for sentencing to disciplinary actions. The information leaflet has been translated into 10 languages.*

*In the Ellebæk Detention Centre, the information leaflet has been translated into 14 languages. See also the answer to paragraph 129 regarding interpretation assistance.*

*The Prison and Probation Service, Zealand, has furthermore stated that a secure mailbox for the detained migrants' requests, complaints et cetera has been set up in August 2020.*

*The Prison and Probation Service, Capital Region, to which Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that the Ellebæk Detention Centre, as a result of CPT's recommendation, has set up a locked mailbox at the Centre's grocery store, where*

*the detained migrants can submit inquiries to management, including possible complaints. The detained migrants are accompanied by the pedagogical assistants when they visit the grocery store and can thus file a possible complaint without the uniformed staff being aware of this.*

*The Department of the Prison and Probation Service refers to the information provided and finds that the fact that the detained migrants are routinely given a leaflet of the mentioned nature is an appropriate way to provide the persons concerned with information about their rights and duties, etc. It is not considered necessary to introduce administrative systems to ensure evidence that such information has been provided.*

### **Paragraph 129 in CPT's report**

#### **CPT's observation concerning paragraph 129:**

- The CPT therefore recommends once again that the use of fellow detainees as interpreters be avoided as a matter of principle. In particular, fellow detainees should not be asked to interpret in matters which might be of a confidential or private nature. Use should be made of professional interpretation services.
- Due to the large number of detained migrants at Ellebæk Detention Centre and the obvious language barriers, the Danish authorities may also consider whether it would be feasible that interpreters for the more frequently needed languages are regularly present at the centre.

*The Prison and Probation Service, Capital Region, to which Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that detained migrants as a general rule do not act as translators or interpreters for other detainees in cases where the risk of misunderstandings due to inadequate interpretation can lead to loss of legal rights or to health risks. In such cases, professional interpreters are used, with whom the Prison and Probation Service has entered into an agreement with, or electronic devices for digital speech translation. This is both for the sake of confidentiality and in order to minimise the risk of misunderstandings. However, some urgent situations may arise where it may be necessary to use others present to translate.*

*The Prison and Probation Service, Capital Region, has further advised that in everyday life at the Ellebæk Detention Centre, there may be communication challenges due to the many nationalities and languages used. On a daily basis and during interrogations, the Centre has so far tried to overcome these challenges by using special language-skilled staff when it has not been possible to call in a professional interpreter. In addition, the Prison and Probation Service does not refute that prisoners in daily life may ask each other for help in translating when contacting the staff. In connection with medical examinations and in preparation for court appearances through a video link, it is already today the practice to request professional interpretation assistance. This practice remains unchanged.*

*The Prison and Probation Service, Capital Region, has also stated that the Ellebæk Detention Centre has purchased translation equipment, which is used for interpretation in normal everyday communication, and that the experiences with this have so far been positive. Regarding the CPT's recommendation that regular interpreter assistance be available in the most frequently used languages at the Ellebæk Detention Centre, it is not considered possible to estimate which languages will be relevant in a given period, as the Centre's many nationalities constantly vary.*

*The Department of the Prison and Probation Service refers to the Prison and Probation Service, Capital Region's statement.*

### **Paragraph 130 in CPT's report**

#### **CPT's observation concerning paragraph 130:**

- The Committee encourages the Danish authorities to extend the possibilities for contact with the outside world, in particular for those who are being detained for prolonged periods. This could be done by allowing them to keep or have access to their mobile phones, as is increasingly the practice in other European countries, or by developing other cost-efficient internet options (such as Voice-over-Internet-Protocol).

*The Danish Government acknowledges that persons detained under the Aliens Act must be offered reasonable conditions appropriate to their legal situation. The Government agrees that the possibility for contact with the outside world is important, and that restrictions on this right should not go beyond what is necessary to ensure the presence of the detainees and security of the detainees and personnel.*

*Similarly to what applies in the Prison and Probation Service's prisons and demand prisons, a ban has been imposed on the possession of mobile phones and similar communication equipment for detainees in the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre. The ban is justified for security reasons.*

*A detained migrant in possession of transportable communication equipment constitutes a significant security risk, as the equipment – especially while the detainee is staying in the institution's outdoor areas – can be used by the person in question to coordinate an impending or ongoing escape through contact with persons outside the institution or smuggling. Possession of a mobile phone may also – if it is capable of sound and image recording – constitute a security risk, as you can easily store and pass on information to unauthorised persons about e.g. the institution's security installations. The building framework and capacity in relation to the staff resources means that it is not considered possible to establish a manageable secure solution for personally delivered and installed mobile phones, similar to the solution found in open prisons.*

*The Prison and Probation Service, Zealand, to which Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that the detained migrants in the Ny-*

*Nykøbing Falster Holding Centre can make telephone calls from the telephone available in the occupancy section, to which the detained migrants have free access. The detained migrants have the opportunity to buy calling cards in the Centre and can make one free call per week.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that detained migrants at the Ellebæk Detention Centre can freely call both Danish and foreign telephone numbers from the installed telephones in the occupancy sections by use of calling cards. The detainees can buy calling cards at the Centre's grocery store twice a week.*

*The Prison and Probation Service, Capital Region, has further stated that the Detention Centre's management – in order to facilitate the detained migrants' access to contact with the outside world and their relatives – is working to introduce a procedure where the acquisition of a calling card is part of the admission procedure. This will ensure that a detainee is quickly given the opportunity to acquire a calling card.*

*As stated regarding paragraph 123, the reopening of the Prison and Probation Service's secured PC network for educational purposes (SK network) will give the detainees at the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre an opportunity to have limited access to the internet. In this connection, it can be advised that it will not be possible to communicate by telephone over the internet through the SK network, because access to the Internet through the SK network is limited, precisely in order to prevent communication out of the institutions under the Prison and Probation Service.*

*It is the assessment that the consideration of the detainees having access to their mobile phones or, alternatively, to communicating by telephone over the Internet, does not supersede the consideration for security, taking into consideration that the detainees, as stated above, have the opportunity to communicate through regular telephone with calling cards.*

*The Department of the Prison and Probation Service refers to the information provided.*

### **Paragraph 131 in CPT's report**

#### **CPT's observation concerning paragraph 131:**

- The CPT recommends that at Ellebæk Detention Centre and at Nykøbing Falster Holding Centre the presence of health-care staff be increased. Furthermore, at Ellebæk, steps should be taken to ensure the daily presence of health-care staff (including on weekends).
- For reasons of medical confidentiality, interpretation during medical consultations should not be provided by custodial staff (nor by fellow detainees, see paragraph 129).

*The Prison and Probation Service, Zealand, to which Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that the medical doctor visits the Nykøbing Falster Holding Centre every 14 days. In addition, regular telephone consultations are held.*

*It is possible to contact a medical doctor seven days a week to get a medical assessment. In the opinion of the Prison and Probation Service the physical consultation and the possibility of telephone consultations are sufficient measures.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that three nurses are employed in the Ellebæk Detention Centre, and that these are present during the day from Monday to Friday. There is a medical doctor present two days a week, and there is also a specialist in psychiatry, who is made use of when needed. The detainees can request to be examined by health-care professionals, which will always result in a consultation with a nurse within a few days and often on the same day the request is made. It is then up to the nurse to assess whether there is a need for the detainee to be seen by a medical doctor.*

*The Prison and Probation Service, Capital Region, assesses that there are sufficient health-care staff at the Ellebæk Detention Centre. On that basis, the Prison and Probation Service sees no reason to change the extent of the health-care staff's presence.*

*Furthermore, it applies to both migrant centres – just as it applies to all other institutions under the Prison and Probation Service – that during the periods when no health-care staff are present, the medical doctor on duty may be contacted or, in emergencies, the emergency dispatch centre (112).*

*The Department of the Prison and Probation Service refers to the information provided and can further advise that the Department agrees that health examinations and treatment must take place within a framework that ensures patient confidentiality, and that prison officers and other staff in the institution or other detainees as a general rule should thus not act as interpreters in connection with the medical examination. Professional interpreters need to be used, with whom the Prison and Probation Service has entered into an agreement, or possibly a device for digital translation. The reason for this is both the consideration of medical confidentiality and the consideration that the risk of misunderstandings must be minimised.*

*However, it should be noted that very urgent situations may arise where it may be necessary to use the staff present to translate.*

### **Paragraph 133 in CPT's report**

#### **CPT's observation concerning paragraph 133:**

- The CPT recommends that at Ellebæk Detention Centre and at Nykøbing Falster Holding Centre:
  - all newly-admitted migrants benefit from a prompt physical examination carried out in a confidential setting by a physician or a nurse reporting to a physician;
  - during this examination, particular attention be paid to the possible existence of mental disorders, acute and chronic diseases, infections, addiction, injuries, medication needs as well as traumatic disorders and signs of victimisation.

- The Committee would also like to be informed about the progress concerning the introduction of screening for identifying victims of torture.

### Physical examination

*The Department of the Prison and Probation Service can inform that it follows from section 7(1) of Executive Order No. 399 of 9 April 2015 on health assistance to prisoners in the institutions under the Prison and Probation Service that the detained migrant shall have a general briefing on the health scheme in the institution as soon as possible after the admission and offer the person concerned a consultation with a medical doctor or nurse affiliated with various institutions.*

*However, this does not apply if the stay can be assumed to be quite short-lived, or the prisoner has been transferred from another of the institutions under the Prison and Probation Service where the person in question has been offered a consultation with a medical doctor or nurse.*

*If the detainee wants a consultation with a medical doctor or nurse, this must take place as soon as possible, cf. section 8(1) of the above-mentioned executive order. In Denmark, it is a basic principle that contact with health-care providers is only established if the patient wants this. The health-care services in the Prison and Probation Service are organised in accordance with this principle, so that a prisoner who is considered capable of making decisions about his or her own life and does not express a desire to be examined or receive treatment, is not forced to be examined or treated.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that every newly admitted detained migrant is informed on the Centre's health scheme at their arrival and will be attended by a nurse as soon as possible, where the detained migrant will be inquire as to his or her somatic and mental state of health. As required, the detained migrant will be examined by a medical doctor, psychologist, or psychiatrist.*

### Victims of torture

*With regard to screening for identification of victims of torture, the Department of the Prison and Probation Service can inform that the Prison and Probation Service is well aware that detained migrants often find themselves in an unresolved and difficult situation that can lead to special physical and mental needs for medical examination and treatment.*

*It should be emphasised that questions of torture may be part of the asylum case, so that e.g. in connection with the asylum procedure, the Immigration Service has carried out investigations with a view to identifying possible victims of torture. More generally, authorities other than the Prison and Probation Service may thus already have provided information on whether a detained asylum seeker has been subjected to torture when he is placed in the Ellebæk Detention Centre, which they will pass on to the Prison and Probation Service to the extent necessary.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department that the Prison and Probation Service area has begun implementing*

*working procedures at the beginning of 2020 that shall ensure a systematised and standardised uncovering of certain psychiatric conditions and assessment of suicide risk based on the manual which is already used in connection with admission to prisons and remand prisons.*

*There are no plans to separately trying to uncover whether a detained migrant has been subjected to torture. It is noted that the nurses already today uncover psychiatric conditions at the admission, and the new question guide will be a tool to ensuring that all relevant conditions are asked about.*

*The health-care staff at the Ellebæk Detention Centre focus on the fact that detainees might potentially have been subjected to abuse, violent trauma or torture, even in cases where the person – when directly questioned – denies it. The health-care staff are thus particularly aware of e.g. complaints regarding multiple aches and pains from various parts of the body without any objective illness as well as the detainee's reactions to confinement, degree of strain and affective reactions. Thus, an individual and concrete assessment of the detainee's health needs is made on an ongoing basis.*

*In can be added that the majority of the current health-care section at the Detention Centre participated when Amnesty International's medical team in June 2016 gave a presentation on tools that allow identification of possible victims of torture.*

*The Department of the Prison and Probation Service refers to the information from the Prison and Probation Service, Capital Region.*

### **Paragraph 134 in CPT's report**

#### **CPT's observation concerning paragraph 134:**

- The CPT recommends that a needs assessment be carried out by the management of both establishments – in co-operation with the relevant health authorities – with a view to ensuring appropriate psychological assistance and psychiatric care to the detained migrants.

*The Department of the Prison and Probation Service can advise that detained migrants, as stated above regarding paragraph 133, are informed about the health-care scheme, inquired as to his or her somatic and mental state of health, and offered a consultation with a medical doctor or nurse. At the consultation, any need for psychological or psychiatric treatment will also be identified. The officers also have ongoing focus on failure to thrive mentally in the migrant centres and will be able to encourage contact with health-care staff.*

*The Department can further advise that the Prison and Probation Service, Capital Region, in collaboration with the Ellebæk Detention Centre at the beginning of 2020 began implementing working procedures to ensure a systematised and standardised uncovering of psychiatric conditions and an assessment of suicide risk based on the manual already used in prisons and remand prisons in connection with the admission of new prisoners.*



*The Prison and Probation Service, Capital Region, has advised that working procedures and a question guide to uncover certain psychiatric conditions and suicide risk have been prepared. The Prison and Probation Service plans to launch the prepared measures during the summer of 2020, so that a systematised and standardised uncovering of certain psychiatric conditions and assessment of suicide risk is ensured.*

*The Department of the Prison and Probation Service refers to the information provided.*

### **Paragraph 135 in CPT's report**

#### **CPT's observation concerning paragraph 135:**

- The Committee recommends that the detained migrants' medical records contain detailed diagnostic information as well as an accurate ongoing record of their state of health and of the necessary treatment.

*The Department of the Prison and Probation Service can inform that in 2019, the Patient Safety Authority began implementing risk-based supervision of the institutions under the Prison and Probation Service.*

*On the basis of the inspections already carried out, the Prison and Probation Service is currently following up on orders and recommendations from the Patient Safety Authority, including with regard to compliance with the rules on record keeping and preparation of examination and treatment plans in the institutions under the Prison and Probation Service. There is also increased focus on managerial support for health-care staff within the areas covered by the Prison and Probation Service and at the individual institutions.*

*The Department of the Prison and Probation Service agrees that the records must contain all relevant information for use in the health-care treatment, and that the records must accordingly contain e.g. information about the patient's condition, the planned and performed treatment, etc., cf. the Executive Order on medical record-keeping. The Department has noted that the areas under the Prison and Probation Service are working purposefully in this regard.*

*The Prison and Probation Service, Capital Region, has advised that in connection with the Areas newly established health-care unit there is an increased managerial support for better practice in regards to record keeping. This is also the case for the Ellebæk Detention Centre. Furthermore, the Prison and Probation Service, Capital Region, has informed that as of July a health-care manager has present at the Centre twice weekly, where the optimisation and quality of e.g. record keeping has been prioritised highly.*

*Reference is also made to paragraph 68 and 75.*

### **Paragraph 136 in CPT's report**

CPT's observation concerning paragraph 136:

- The CPT recommends that the Danish authorities take the necessary measures to ensure that the record drawn up after a medical examination of a detained migrant (whether newly arrived or not) contains:
  - (i) a full account of objective medical findings based on a thorough examination (supported by a 'body chart' for annotating traumatic injuries),
  - (ii) a full account of statements made by the person concerned which are relevant to the medical examination (including a description of his/her state of health and any allegations of ill-treatment), and
  - (iii) the physician's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.
- In addition, the results of every examination, including the above-mentioned statements and the physician's observations, should be made available to the detained migrant and his/her lawyer.
- Moreover, the authorities should ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the detained migrant concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the relevant investigatory authorities, regardless of the wishes of the person concerned.
- Health-care staff should further advise detained migrants of the existence of the reporting obligation and also that the forwarding of the report to the relevant investigatory authorities is not a substitute for the lodging of a complaint in a proper form. Health-care professionals (and the detained migrants concerned) should not be exposed to any form of undue pressure or reprisals from staff when they fulfil that duty.

*The Department of the Prison and Probation Service can advise that all health-care staff must follow the rules for record keeping. In connection with the health professional inspections which the Danish Patient Safety Authority has carried out since 2019, there has been increased focus on record keeping.*

*The Department does not deem it apt to initiate a procedure for reporting injuries of a detainee who does not wish to give consent to the disclosure of health information. The starting point in Denmark is that medical doctors have a duty of confidentiality and that there must be a relationship of confidentiality between the health-care professional and the patient. According to the Health Care Act, medical doctors have a right, but not a duty, to pass on health information to the police. Therefore, it will be a concrete assessment by the health-care professional whether health information must be passed on about possibly criminal circumstances.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that as a general rule, no medical records are handed out to others without the consent of the detainee. If, during a consultation or an examination of a detainee, the health-care professional finds circumstances which the detainee*

wishes to pass on to another authority, this will naturally be done. If there are circumstances that might have an impact on the detainee's health professional treatment or the processing of the asylum case, a conversation is held with the detainee about the observations, where it is attempted to clarify whether the detainee's lawyer is aware of the situation and whether it is recommended that the information is passed on with the consent of the detainee or by the detainee himself.

The Department of the Prison and Probation Service refers to the information provided and also remarks, in relation to access to the detainee's health information, that there is access to the information in accordance with right of access rules in section 36-39 of the Health Care Act. If the detainee gives consent, the detainee's lawyer will also have access to the information.

### **Paragraph 137 in CPT's report**

#### **CPT's observation concerning paragraph 137:**

- This practice is unacceptable.
- It therefore recommends that prescribed medicines, as a rule, only be prepared and distributed by qualified health-care staff.
- Exceptionally, in very small establishments where a daily presence of health-care staff might be difficult to ensure, the CPT trusts that steps will be taken to ensure that individual medicine doses are prepared exclusively by a health-care professional and their distribution respects the precepts of medical confidentiality. Further, any individual medicine box should be marked in such a way as to allow an absolute reliable identification of the patient concerned.

The Department of the Prison and Probation Service can inform that on the basis of the health professional supervision that the Patient Safety Authority has carried out since 2019 in the prisons and remand prisons under the Prison and Probation Service, there has been greater focus on medication handling. Thus, a process is now underway regarding changes in medication handling. This means, among other things, that medication is distributed to the individual detainee, and that medicine is stored marked with the individual's name.

The Department of the Prison and Probation Service agrees that medication handling must take place within a framework that ensures patient confidentiality and safety. Medication handling is performed by health-care staff or officers who are trained for the task. The Department of the Prison and Probation Service also refers to the answer to paragraph 65.

### **Paragraph 138 in CPT's report**

#### **CPT's observation concerning paragraph 138:**

- The CPT recommends that these records be removed from the establishment or that they be kept locked away by a member of the health-care staff.

*The Department of the Prison and Probation Service can advise that in 2019, the Patient Safety Authority began implementing risk-based inspections of the institutions under the Prison and Probation Service. As a result, there has been increased focus on patient confidentiality and handling of sensitive personal data.*

*The Department agrees that patient records must be kept within a framework that ensures patient confidentiality.*

*The Prison and Probation Service, Zealand, to which the Nykøbing Falster Holding Centre belongs, has accordingly informed the Department of the Prison and Probation Service that patient records for remand prisoners who have previously stayed at the Nykøbing Falster Holding Centre were removed immediately after the CPT's visit.*

*The Department of the Prison and Probation Service refers to the information from the Prison and Probation Service, Zealand, and otherwise refers to the answer to paragraph 65.*

### **Paragraph 139 in CPT's report**

#### **CPT's observation concerning paragraph 139:**

- The CPT recommends that custodial staff in all detention centres for migrants be carefully selected and receive appropriate training. They should possess well-developed qualities in the fields of inter-cultural sensitivity and be able to recognise if detainees are showing stress symptoms in order to be able to react appropriately.

*The Department of the Prison and Probation Service can advise that the Prison and Probation Service has initiated a more detailed investigation of the extent to which the staff at the migrant centres need special training in intercultural understanding, working with the mentally vulnerable, etc.*

*Thus, a meeting was already held at the beginning of 2020 between the Prison and Probation Service's Group Education and the Ellebæk Detention Centre with a view to uncovering the need for supplementary training. Initially, a number of immediate focus areas was identified, such as working with intercultural understanding, working with mentally vulnerable persons, and stronger training in verbal conflict resolution as a result of the language barrier.*

*On that basis, the Prison and Probation Service's Group Education is in the process of assessing which initiatives should be implemented. It might e.g. be the completion of courses, workshops, specially designed processes or the like.*

*It can be added that the Ellebæk Detention Centre has planned a number of staff meetings in 2020, which could be used for a further upgrading of qualifications.*

### **Paragraph 140 in CPT's report**

CPT's observation concerning paragraph 140:

- The CPT urges the Danish authorities to redouble their efforts to fill the vacant custodial staff posts at Ellebæk Detention Centre, in order to guarantee security and provide detained migrants with purposeful regime activities.

*The Department of the Prison and Probation Service can advise that generally, there have in recent years been challenges connected with a shortage of prison officers in the entire Prison and Probation Service, which among other things is due to a sharp increase in the number of prisoners across the country, with a consequent high occupancy rate. A number of initiatives have been launched to strengthen the recruitment, including intensification of recruitment campaigns and the establishment of the new educational institution in western Denmark, which will help to ensure that more officers can be trained for the country's prison, thus easing the pressure on the employees of the Prison and Probation Service. Despite these initiatives and changes in internal allocation of resources, part of the staff shortage has had to be covered by overtime work.*

*As far as the Ellebæk Detention Centre is concerned, the Prison and Probation Service has launched a number of measures that have helped to improve the staffing situation. For instance, this includes, a local recruitment effort and a new staffing model which has been implemented gradually from 1 July 2019. The new staffing model has led to a number of changes regarding shift planning, additional security measures and recruitment of pedagogical assistants who manage the leisure and hobby activities with the detainees. Among other things, this means that the need for prison officers has been reduced.*

*In addition, a focused effort has been launched to reduce sick leave, which was one of several reasons why, at CPT's visit in April 2019, full staffing was not available. In the period from April 2019 to July 2020, the sick leave was reduced from 48.1 days per man-year to 24.1 days per man-year for prison officers at the Ellebæk Detention Centre. During the same period, it was possible to reduce the sick leave for the entire staff from 38.2 days per man-year in April 2019 to 35 days per man-year in December 2019.*

*Through the above efforts, the staffing situation in the Ellebæk Detention Centre as of 1 August 2020 had improved so that there is a much better staffing situation than was the case in April 2019. Targeted work continues to e.g. reduce sick leave and improve recruitment of new prison officers.*

**Paragraph 142 in CPT's report**

CPT's observation concerning paragraph 142:

- This is unacceptable.
- The Committee recommends that the disciplinary rules applicable to detained migrants be amended in the light of the above remarks. As regards the damaging effect and maximum length of solitary confinement, reference is further made to paragraph 81 and the recommendation made therein.

*The Department of the Prison and Probation Service can inform that the ban on possession of mobile phones and similar communication equipment at the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre is deemed justified for security reasons. A detainee's possession of a mobile phone thus constitutes a significant security risk, as a telephone can be used to coordinate evasion or smuggling of e.g. narcotics.*

*As a result of the ability of a mobile phone to record sound and image, the possession of a mobile phone will also otherwise pose a security risk, as the mobile phone can easily store and pass on information to unauthorised persons about e.g. the institution's security technical installations.*

*Due to the security risk that possession of a mobile phone may pose, the Prison and Probation Service has found it expedient to also let the usual normal sanctions in connection with sentencing to solitary confinement in closed prisons and remand prisons, which follow from the rules for remand prisoners, apply to detainees in the Ellebæk Detention Centre.*

*It is noted that the rules for disciplinary actions against, among other things, illegal possession of a mobile phone are under consideration, and reference is made to the answer to paragraph 81.*

#### **Paragraph 143 in CPT's report**

CPT's observation concerning paragraph 143:

- Reference is made in this respect to the comment made in paragraph 128.

*Reference is made to the answer to paragraph 128.*

#### **Paragraph 144 in CPT's report**

CPT's observation concerning paragraph 144:

- The CPT would like to receive confirmation that detained migrants are always informed, in a language they understand, about the reasons for solitary confinement imposed on them and about the possibilities to appeal a disciplinary decision. Whenever necessary, use should be made of professional interpretation services. Further, the detained migrants concerned should always receive a copy of the decision in order to facilitate the filing of an appeal.

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Probation and Prison Service that a professional interpreter is used in cases of disciplinary actions. The detainee is always instructed on the possibility of appealing to the Department of The Prison and Probation Service and is always offered a copy of the decision.*

*Additionally, it is advised that the Prison and Probation Service intends to prepare an information leaflet in various relevant languages which must be handed out to detainees at the Ellebæk Detention Centre in connection with interrogations so that the detainees also receive written guidance.*

*The Prison and Probation Service, Zealand, to which the Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that in the autumn of 2019, an information leaflet was prepared for the detainees at the Nykøbing Falster Holding Centre. The leaflet contains information about both everyday life and the consequences of violations. The leaflet has been translated into 10 different languages.*

*It is also stated that interpreters are used in those cases where the language barrier between the detainee and the staff is so pronounced that it must be assumed that the detainee will not otherwise be able to understand the content of the disciplinary action.*

*Finally, it is advised that the prisoner always receives guidance about the possibility to file complaints to the Department of the Prison and Probation Service and is always offered to a copy of the decision.*

*The Department of the Prison and Probation Service refers to the information provided.*

#### **Paragraph 145 in CPT's report**

##### **CPT's observation concerning paragraph 145:**

- As recommended by the CPT in the past, health-care staff should always visit the person immediately after placement in isolation and thereafter, on a regular basis, at least once per day. In order to be able to take on these additional tasks, the presence of health-care staff at both establishments needs to be reinforced (see the recommendation made in paragraph 131).

*Reference is made to the answer to paragraph 84.*

#### **Paragraph 146 in CPT's report**

##### **CPT's observation concerning paragraph 146:**

- The CPT recommends that the Danish authorities take steps at the Ellebæk Detention Centre to ensure that detained migrants placed in solitary confinement are granted at least one hour of access to the open air every day (including on weekends). The legislation should be amended accordingly.

*The Department of the Prison and Probation Service can initially state that pursuant to section 43(3) of the Criminal Enforcement Act, a detainee has the right to spend at least one hour daily in the open air, unless this will be incompatible with the institution's handling of security considerations, or the prisoner is placed in solitary confinement pursuant to section 66 of the Act.*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that detainees who are excluded*

*from the community or who due to disciplinary actions are placed in solitary confinement in the Ellebæk Detention Centre, have access to at least one hour's yard time each day.*

*The Prison and Probation Service, Zealand, to which Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that detainees who are excluded from community, or who due to disciplinary actions are placed in solitary confinement, will generally be transferred from the Nykøbing Falster Holding Centre to the Ellebæk Detention Centre. If, exceptionally, there is no such transfer, the person in question will have access to at least one hour's yard time each day.*

*The Department of the Prison and Probation Service refers to the information provided.*

### **Paragraph 147 in CPT's report**

CPT's observation concerning paragraph 147:

- If proven true, this shortcoming should be remedied.

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department that detainees who are excluded from the community, or who are in the process of serving time in solitary confinement, similarly to the other detainees have the opportunity to buy a phone card in the Detention Centre's shop. If the persons in question wish to make telephone calls, it is now possible to do so from the telephone which as of 10 June 2020 was installed in the single room section, so that there is a fixed telephone in this ward. Until now, they have had the opportunity to use the community section's telephone, which staff could temporarily move to the single room section.*

*The Prison and Probation Service, Zealand, to which Nykøbing Falster Holding Centre belongs, has informed the Department that detainees who are excluded from the community or are serving time in solitary confinement are primarily transferred from the Nykøbing Falster Holding Centre to the Ellebæk Detention Centre. If, exceptionally, there is no such transfer, the detainee can have a telephone brought into the cell if he wishes to make telephone calls.*

*The Department refers to the information provided.*

### **Paragraph 148 in CPT's report**

CPT's observation concerning paragraph 148:

- The CPT recommends that these shortcomings be remedied.

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department that the Ellebæk Detention Centre has a total of seven cells which are*



*used in connection with the sentencing to solitary confinement or exclusion from the community. Two of these seven cells have been refurbished in 2019. In this connection, the cells have had new furniture. The two cells have been taken into use. Another two of the seven cells are still under repair. These are expected to be completed in September 2020. The remaining three cells are awaiting repair. There is no time schedule for this yet.*

*The Department of the Prison and Probation Service refers to the information provided by the Prison and Probation Service.*

### **Paragraph 149 in CPT's report**

#### **CPT's observation concerning paragraph 149:**

- The CPT recommends that steps be taken at Ellebæk Detention Centre and, where appropriate, in other immigration detention facilities, to ensure that a member of the health-care team always visits persons placed in an observation room immediately after the placement and at regular intervals until the placement ends. These visits should be systematic and should never depend on the assessment of custodial staff. Further, any person who remains mentally disturbed or suicidal after several hours must be clinically assessed and, if necessary, transferred to a mental health establishment.
- Steps should also be taken to ensure that all medical examinations are conducted out of the hearing and – unless the physician concerned requests otherwise in a particular case – out of the sight of custodial officers.

#### **Health-care visits**

*The Department of the Prison and Probation Service can advise that it follows from section 63 and 64 of the Criminal Enforcement Act and rules laid down in this regard on exclusion from the community, including placement in an observation cell, that health-care staff shall not carry out compulsory supervision of a detained migrant at the commencement of an observation cell placement or later during the placement.*

*On the other hand, it follows from section 20 of the Executive Order on exclusion from the community, including placement in an observation cell, that when placed in an observation cell, a medical doctor must be called if there is any suspicion that the detainee suffers from an illness, including injury, in connection to the placement, or if the person of his or her own accord requests medical attention. The Executive Order is in line with the preparatory work for the Criminal Enforcement Act and also the rules regarding medical supervision when placed in solitary confinement. Furthermore, the person in question must be regularly supervised by the staff during the placement, cf. section 21 of the Executive Order.*

*The terms laid down by the rules on criminal enforcement is consistent with the fact that Denmark has chosen to make a reservation to rule 43.2 in the European Prison Rules. It follows from rule 43.2*

*that prisoners placed in solitary confinement must be seen daily by a medical doctor or nurse. However, Denmark has opted-out of the rule, as mandatory medical supervision, etc., raises serious medical ethical concerns, as it could be perceived by the prisoner or detained migrant as a medical legitimization of the intervention and its upholding, thus leaving doubts about the division of responsibilities between the health staff and the prison management.*

*There are no plans to change the current rules on criminal enforcement regarding placement in an observation cell in order to introduce mandatory medical supervision in connection to the placement.*

*It is also noted that there is no observation cell in the Nykøbing Falster Holding Centre, which is the reason why the question is not relevant in relation to this institution.*

#### *Transfers to mental health establishments*

*With regard to the question of transfer of detained migrants to a psychiatric institution if a mental illness has been observed, it is noted that pursuant to section 2(4) of the Executive Order on health assistance to prisoners in institutions under the Prison and Probation Service detained migrants in need of psychiatric assistance are admitted to a psychiatric ward or hospital.*

*The European Prison Rules also state that persons suffering from a mental illness and whose mental health state is incompatible with imprisonment should be deprived of liberty in an institution specially designed for that purpose. If such persons are nevertheless exceptionally deprived of liberty in a prison, there must be special rules that consider their status and needs.*

*On the basis of these rules, and because the institutions under the Prison and Probation Service are not suitable to house mentally ill prisoners or detained migrants, the Prison and Probation Service will always seek to have a mentally ill prisoner or detainee who suffers from actual insanity (psychosis) admitted to a psychiatric ward or a hospital.*

*All prisons and remand prisons, including the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre, have a medical doctor attached who can refer a detained migrant to a psychiatric ward or hospital.*

*However, in practice it may happen that mentally ill (psychotic) persons stay in institutions of the Prison and Probation Service for some time, while the persons in question await transfer to a psychiatric ward or hospital.*

*If there is a suspicion, or if it is found that a detained migrant suffers from a mental illness, he may – in cases where hospitalisation in a psychiatric ward or hospital is not deemed necessary – be transferred to Vestre Hospital, which belongs to Vestre Prison. During a stay at Vestre Hospital, the detainee may not be in contact with ordinary prisoners.*

#### *Medical examinations*

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that it is the general practice at*

*the Ellebæk Detention Centre that a nurse examines a detainee when the health-care staff becomes aware that the person in question is suicidal. Following a concrete assessment, relevant measures are initiated, including a consultation with a medical doctor and an assessment of whether the detained migrant should be transferred to a psychiatric ward, or whether relevant (medical) treatment, etc. should be initiated. If a suicidal detainee is placed in an observation cell, the health-care staff will make frequent inspections. How often the person will be inspected depends on a specific assessment.*

*In general, in connection with placement in an observation cell, the health-care staff in the Ellebæk Detention Centre are notified at the placement in order to make a health assessment of whether there is a concrete need for supervision of the detained migrant. Subsequently, the person in question is supervised according to the health-care staffs' specific assessment and otherwise as needed.*

*The Prison and Probation Service, Zealand, to which the Nykøbing Falster Holding Centre belongs, has informed the Department of the Prison and Probation Service that if a migrant in the Nykøbing Falster Holding Centre is considered to be suicidal, the staff, including the nurse, will look after the person concerned in relation to the threat thereof. As per a specific assessment, it will thus be possible to initiate relevant measures, including a consultation with a medical doctor and an assessment of whether the detainee should be transferred to a psychiatric ward, or whether relevant (medical) treatment, etc. should be initiated. Should there be a need to place a suicidal detained migrant in an observation cell, the person in question will be transferred to Storstrøm Prison, where there is an observation cell. In that case, the person in question will be returned when the placement in the observation cell ends.*

*The Department of the Prison and Probation Service refers to what is stated above and can add that it agrees that health examination and treatment must take place within a framework that ensures patient confidentiality. Prison officers must therefore, as a general rule, not be present in connection with health checks of detained migrants. At the same time, the Department of the Prison and Probation Service draws attention to the fact that there may be situations where, for reasons of prison security, it is necessary for prison officers to be present at a health examination or treatment.*

### **Paragraph 150 in CPT's report**

#### **CPT's observation concerning paragraph 150:**

- These shortcomings should be remedied.

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that Ellebæk has two observation cells, which are located in the same section as the cells used for solitary confinement and exclusion from community, as mentioned under paragraph 148.*

*Refurbishment of the Centre's two observation cells and the three remaining solitary confinement cells, cf. the answer to paragraph 148, has not yet been started. The Centre plans to refurbish these five cells at a later date. There is currently no time schedule for the project.*

*A thorough cleaning of the Centre's toilets, including the toilets in the above mentioned section, is held in abeyance, since it has been decided to initiate a refurbishment of the toilets, including those belonging to the above mentioned section, which starts in the end of August 2020.*

*The Department of the Prison and Probation Service refers to the information provided.*

### **Paragraph 151 in CPT's report**

CPT's observation concerning paragraph 151:

- The CPT urges the authorities to stop this practice. It recommends that persons are never placed naked in a room and that those at risk of suicide be always provided with (rip-proof) clothing appropriate to their specific needs.

*The Prison and Probation Service, Capital Region, to which the Ellebæk Detention Centre belongs, has informed the Department of the Prison and Probation Service that the staff at the Ellebæk Detention Centre, based on a specific assessment in exceptional cases may completely undress a detainee in an observation cell, if it is deemed necessary to prevent self-harming behaviour.*

*If the clothes are taken away from a detainee, including his or her underpants, the staff will hand over a blanket that cannot be used to self-harm. When the risk of self-harm is deemed to have been sufficiently reduced, the staff will hand over the underpants to the detainee, and then the rest of the clothing.*

*The Prison and Probation Service has no current plans to introduce new measures in this area, including the use of clothes that cannot be torn apart. However, the Prison and Probation Service continuously monitors the experiences within this area in relevant countries to assess whether such experiences eventually can be used in the Prison and Probation Service.*

*The Department of the Prison and Probation Service can refer to the information provided and otherwise refers to the answer to paragraph 92.*

### **Paragraph 152 in CPT's report**

CPT's observation concerning paragraph 152:

- The Committee recommends that the Danish authorities ensure that these precepts are effectively implemented.

*The Department of the Prison and Probation Service can inform that the security standards regarding strip search do not apply to the Ellebæk Detention Centre and the Nykøbing Falster Holding Centre.*

*Step-by-step undressing and dressing – as described by the CPT – is generally not used for strip searches within the Prison and Probation Service as it is not believed that it will ensure a sufficiently effective examination.*

*The use of strip search in the migrant centres is limited compared to other closed institutions under the Prison and Probation Service and is normally only used in situations where there is an increased risk of smuggling, e.g. by admission after an absence from the institution, or if there is a concrete suspicion of illegal activities. Strip searches can take place by undressing and/or by using a metal detector. Finally, it is noted that strip searches can only be carried out when the relevant conditions in section 60 of the Criminal Enforcement Act are met.*

#### **D. Psychiatric institutions**

##### **Paragraph 158 in CPT's report**

##### **CPT's observation concerning paragraph 158:**

- The CPT recommends that the Danish authorities take the necessary steps to ensure that patients are never mechanically restrained due to the lack of places at a secure psychiatric hospital.
- In more general terms, the Committee strongly recommends that the Danish authorities continue their efforts to reduce recourse to means of restraint in psychiatric hospitals, and instances of prolonged belt fixation in particular. As pointed out after the CPT's previous visits, fixating psychiatric patients for days on end cannot have any justification and may amount to ill-treatment.
- Further, the utmost care should be taken to ensure that a reduction in recourse to belt fixation is not substituted by a generally increased use of other, similarly or more coercive means of restraint (notably chemical restraint).

*The Ministry of Health agrees with CPT's remarks that patients should never be mechanically restrained due to the lack of places at a secure psychiatric hospital.*

*The Ministry has for a number of years been working towards a goal to reduce mechanical and chemical restraints in psychiatric hospitals. Therefore, the Ministry decided in 2014 to set an ambitious goal to reduce coercive measures with 50 % by 2020. Unfortunately, this goal has not been reached, although the number of prolonged belt restraints have been reduced significantly, as mentioned by the CPT in paragraph 158. However, the Ministry is aware of the so called "substitution effect" and continues to have a strong focus on reducing the use of coercive measures, here amongst the use of chemical restraints at the psychiatric wards.*

*Due to Ministry's strong focus on helping people with mental illness, the Danish Government decided in December 2019 to initiate a new 10 year-plan to strengthen the general psychiatric conditions in Denmark. In this process, recommendations for a new goal to reduce coercion will be developed. Until new ambitious goals*

*to reduce coercive measures have been implemented, the Ministry will continuously and closely follow the extent of recourse to means of coercion in psychiatric wards.*

*In addition, the Danish Government has earmarked an additional (DKK) 600 millions (EUR 80.578.558) a year from 2020 and forward. Among other things, this will lead to an increase in the general capacity at the psychiatric wards. Also, it was decided to build ten new places at Sikringsafdelingen to make sure that patient's does not wait for a place.*

*In regards to the cases mentioned to by the CPT, where two patients were submitted to mechanical restraint (belt restraint) for respectively 10 and 13 months, the Ministry agrees that this is not an acceptable treatment. As the CPT is aware, there are 30 places at Sikringsafdelingen, which were all were occupied at the time it was decided that the patients in question should go to Sikringsafdelingen (the Secure Ward). The patients were both severely mentally ill and dangerous, although this does not justify the very long use of mechanical restraints.*

*The Ministry refers to section above where it is noted that the Ministry has decided to build ten new places at Sikringsafdelingen to make sure that the above mentioned cases are not repeated in the future.*

### **Paragraph 172 in CPT's report**

#### **CPT's observation concerning paragraph 172:**

- the CPT recommends that the weekly review by a psychiatrist who is not employed at Sikringsafdelingen be re-introduced.
- Further, the utmost care should be taken that "walking-restraint" is not applied as a substitution for more modern, professional and less restrictive methods to control violent behaviour.

*In regards to the use of walking-restraint, the Ministry of Health initially notes that the psychiatric wards always strives til use modern and professional methods and treatments.*

*In addition, the Ministry notes that the use of walking-restraint is used on patients with severe mental illness as an alternative to long isolation or mechanical restraints, cf. the Danish Mental Health Act, Section 18 c (1). In addition, a number of conditions must be met before walking-restraint can be used, just as the use requires permission from the Danish Patient Safety Authority, cf. Section 18 c (4).*

*The Ministry also refers to fact that the Danish Health Authority (DHA) has monitored the use of walking-restraint since was made possible at Sikringsafdelingen in 2010. In an evaluation from 2014, DHA concluded that walking-restraint was being used as a supplement to other coercive measures and had not replaced these. The evaluation also concluded that the use of walking-restraint gave the patients the opportunity to do activities and spend time with fellow patients.*

*The condition of having a weekly review by a psychiatrist who was not employed at Sikringsafdelingen was lifted by the Ministry in 2015. The Ministry's decision hereof was based on DHA's evaluation from 2014, who noted that the patients mental illness often were chronic with minor fluctuations in intensity. Because of this, it was not necessary to evaluate the decision to use walking-restraint with short intervals. In addition, it was*

*concluded through the years that the reviews by a psychiatrist who was not employed at Sikringsafdelingen and the chief physician working at Sikringsafdelingen were similar. On this background, it was decided that it was sufficient that chief physician at appropriate intervals and at least once a month should review the need for continued application of walking-restraint.*

*On this background, the Ministry does not currently have plans to reintroduce the rules regarding a weekly review by a psychiatrist who is not employed at Sikringsafdelingen.*

*Link to the evaluation: <https://www.sst.dk/da/nyheder/2014/~/~me-dia/E18E0326C4BB406F86380341CBEFD63C.ashx>*

### **Paragraph 173 in CPT's report**

#### **CPT's observation concerning paragraph 173:**

- The CPT would like to receive the comments of the Danish authorities on the matter regarding a particular patient wishing to use a walking belt outside the Secure Department's grounds.

*With very few exceptions, it is a fundamental rule in The Mental Health Act that involuntary admission and coercive measures only can happen at the psychiatric ward where the patient is admitted, cf. The Mental Health Act, Section 1 (2).*

*Hence, it is not permitted to use walking-restraints outside of Sikringsafdelingen.*

*Although the Ministry recognizes the good intent from the staff at Sikringsafdelingen in the specific case, the Ministry do not find it advisable to expand the possibilities to use coercive measures in accordance to the Mental Health Act at this time.*

*However, the Ministry will, in connection with the Ministry's work with developing a new goal to reduce coercion, discuss the issue.*

### **Paragraph 176 in CPT's report**

#### **CPT's observation concerning paragraph 176:**

- It therefore strongly encourages the department's management to continue their efforts to motivate and engage with the locked-up patients and to provide them with appropriate human contact.
- the Committee invites the department's management to be extremely cautious when imposing and reviewing the described harsh regime. If it is exceptionally considered necessary as a last resort measure, it should only be applied for the shortest possible time.

*Sikringsafdelingen has informed the Ministry of Health that since the inspection visit, Sikringsafdelingen has applied to the Danish Patient Safety Authority for permission to use walking-restraint in relation to the patient in question, to ensure that he is not isolated for a prolonged period of time in his own room. Generally, we can inform you that, in case of a possible prospect of long-term door locking in relation to a patient, an application*

*is made to the Danish Patient Safety Authority for permission to use walking-restraint, precisely for the purpose of avoiding prolonged isolation and reducing health and social consequences, see the Danish Mental Health Act.*

*Basically, through the treatment offered, Sikringsafdelingen always seeks to alleviate patients' acute psychotic symptoms both medically and through environmental therapy, to ensure that they can safely interact with others to the extent they are able to do so and can benefit from it. One objective of this is also to avoid or minimise long-term door locking as far as possible.*

*A few patients request long-term door locking themselves, as they feel unsafe and in danger, or because they themselves fear they will attack fellow patients or staff in the event of an unlocked door. However, a few other patients' illness is so difficult to treat that even medication in normal doses has no effect. When medicine prescribed in normal doses has been given without effect for a sufficient period of time, doses are increased until an effect is seen, if the drugs in question have an effect – which they do not always have. Therefore, the medical treatment of the condition may take a long time before the desired effect is achieved. In the case of compulsory treatment, the treatment is further prolonged.*

*In addition, the Ministry refers to Danish Mental Health Act, Section 4, where the overall legal framework for the use of coercive measures in the psychiatric system appears. It follows from Section 4, that coercion must not be used until everything possible has been done to achieve the voluntary participation by the patient. When conditions allow it, the patient shall have an appropriate reflection period. The use of coercion shall be proportionate with what is sought to be achieved hereby, and if less restrictive measures are sufficient, these must be used. Coercion shall be used as leniently as possible and with maximum consideration to the patient, so that no unnecessary violation or inconvenience occurs. In addition, coercion must not be used to a wider extent than necessary to achieve the sought purpose.*

### **Paragraph 177 in CPT's report**

CPT's observation concerning paragraph 177:

- The CPT therefore urges the management of Sikringsafdelingen to use seclusion only as a measure of last resort, apply it for the shortest possible time (usually minutes rather than hours), and immediately terminate it when the reason for its use has ceased. If, exceptionally, for compelling reasons, a patient is secluded for more than a period of hours, the measure should be reviewed by a doctor at short intervals. Consideration should also be given in such cases to the involvement of a second, independent doctor.

*Sikringsafdelingen has informed the Ministry of Health that stays in the 0-room (zero room or zero stimulus room) do not deviate from Sikringsafdelingens usual practice of using this type of measure as a last resort.*

*From time to time, one particular patient has an explicit desire to stay in the 0-room when his delusions/hallucination mean that he feels safe in the 0-room (the patient calls it his holiday cottage). As soon as the patient's troubled condition is treated, he can be returned to his own room.*

*It is Sikringsafdelingens policy that the 0-room should as far as possible be available so it is ready if a situation arises where a patient becomes acutely ill with the need for being placed in the room. Therefore, the 0-room is thus empty most of the time.*



*The Ministry refers to the Ministry's reply to paragraph 176 regarding the Danish Mental Health Act, Section 4, where it among other things is stated that coercion must not be used until everything possible has been done to achieve the voluntary participation by the patient coercion and not be used to a wider extent than necessary to achieve the sought purpose.*

### **Paragraph 178 in CPT's report**

#### **CPT's observation concerning paragraph 178:**

- The CPT recommends that the necessary steps be taken, including at legislative level, to ensure that these precepts are implemented in practice.

*Sikringsafdelingen has informed the Ministry of Health that it first of all should be noted that Sikringsafdelingens 0-room cannot be compared with seclusion rooms as they are known abroad. The 0-room thus has its own bath and toilet, a bed etc., but not the stimuli which are otherwise often found in a patient room.*

*Sikringsafdelingen uses permanent monitoring for patients in the 0-room if stipulated by the Danish Mental Health Act (restraint). Patients who are not restrained while staying in the 0-room may also be subject to permanent monitoring if special circumstances otherwise dictate this, such as risk of self-harm.*

*If it is deemed that a patient does not need permanent monitoring, the patient will be in the 0-room with the door locked and will be checked on minimum once an hour, see the Danish Mental Health Act.*

*As a concrete example, a new patient was recently admitted to Sikringsafdelingen. Hospitalisation took place initially, and following a concrete assessment, in the 0-room at 11:00, but the patient was transferred to his own room already at 10:00 on the following day. It is always sought to keep stays in the 0-room as brief as at all possible, and the department management at the Department of Forensic Psychiatry does its utmost to ensure that long-term stays behind locked doors in Sikringsafdelingen are limited to the highest possible extent.*

*The Ministry of Health notes that the monitoring happens while taking the patient's wishes into account, cf. Order number 1075 regarding the use of coercion other than involuntary admission at psychiatric wards, Section 30. However, as a ground rule the staff must during the daytime visit patients held in seclusion every hour, spending ten minutes in the room. During the night, the staff must as a ground rule supervise the patients once an hour through peepholes in the door.*

### **Paragraph 179 in CPT's report**

#### **CPT's observation concerning paragraph 179:**

- The CPT once more recommends that mechanical belt restraint always be used for the shortest possible time (usually minutes rather than hours), and always be immediately terminated when the reason for its use has ceased. As emphasised above, applying mechanical restraint for days on end cannot have any justification and could, in the CPT's view, amount to ill-treatment (see paragraph 158).
- Further, in cases of disagreement between the treating and the outside doctor about the prolongation of belt restraint, the matter should be automatically referred to an independent third authority for decision.

The Ministry of Health refers to the Ministry's reply to paragraph 158 in regards to CPT's remarks about using mechanical restraints for the shortest time possible.

In regards to CPT's remarks about an independent third authority, the Ministry refers to the Ministry's reply from 2014. Hence, it is still Ministry's opinion that the current rules are sufficient to ensure the necessary safeguards for the patients, who must be fully informed if there is a discrepancy between the two doctor's assessments, and that the patient can lodge a complaint to the Psychiatric Patient's Complaints Board.

### **Paragraph 180 in CPT's report**

CPT's observation concerning paragraph 180:

- The CPT would like to be informed about the frequency of recourse to chemical restraint at Sikringsafdelingen in the years 2018 and 2019.

The National Health Data Authority has produced the following table regarding the frequency of chemical restraint at Sikringsafdelingen in Slagelse Psychiatric Hospital, broken down by year and type.

The National Health Data Authority has informed the Ministry of Health that the National Health Data Authority have made a distinction between the categories "chemical restraints" and "sedatives". Both of these categories includes coercion.

Table 1		
Frequency of chemical restraint at Sikringsafdelingen in Slagelse Psychiatric Hospital, broken down by year and type.		
Type of forcement	2018	2019
<b>Chemical restraint</b>	-	-
<b>Sedatives</b>	6	12
Kilde:	Register of force in psychiatric institutions (TIP), 18. august 2020, The Danish Health Data Authority	
Note:	The activity is restraint to forcement in Sikringsafdelingen, dept. 3800310	
Note:	Due to discretion, numbers of 1-4 will be shown as -.	

**Sources:**

Register of force in psychiatric institutions (TIP), 18. august 2020, The Danish Health Data Authority

**Delimitations in time:**

This data is limited to only include activity in the period 2018-2019.

**Delimitations in the data:**

This data is limited to only include activity from Sikringsafdelingen in Slagelse Psychiatric Hospital, dept. 380031

### **Paragraph 181 in CPT's report**

CPT's observation concerning paragraph 181:

- The CPT recommends that such a restraint register be established at Sikringsafdelingen.

*All use of coercion and involuntary admission in psychiatric wards, here amongst at Sikringsafdelingen, must be registered in a special protocol to the National Health Data Authority. The numbers from Sikringsafdelingen is available and can be acquired through the National Health Data Authority.*

*Hence, The Ministry of Health does not find it necessary to use resources to establish a register at Sikringsafdelingen.*

### **Paragraph 183 in CPT's report**

#### **CPT's observation concerning paragraph 183:**

- The CPT reiterates its recommendation that the legislation be brought into line with this approach.

*The Ministry of Health has taken note of CPT's recommendation regarding request for discharge. However, as stated in the Ministry's reply to paragraph 149 in CPT's report from 2014, the Ministry has no plans to alter the current arrangement at this time.*

*As mentioned in the Ministry's reply to paragraph 149 in CPT's rapport from 2014, the time limit of 24 and 48 hours is stipulated so that the chief physician will obtain adequate time to establish whether the patient meets the conditions of being detained or discharged, as stipulated in The Mental Health Act, Section 5.*

*According to Section 5, the patient must be insane or in a condition similar to insanity in order to use involuntary treatment and coercive measures. The following two conditions must be met prior to any compulsory admission of a patient to a psychiatric ward:*

- 1. The patient must be insane (mentally ill) or in a similar condition and*
- 2. It must be deemed unjustifiable not to admit the patient for treatment*

*This is the case when in the following situations:*

- 1. The prospect of recovery or a significant and decisive improvement of the patient's condition would otherwise be seriously reduced, or*
- 2. the patient exposes him or herself or others to significant harm.*

*In addition, the patient can lodge a complaint to both the Psychiatric Patient's Complaints Board, the Psychiatric Patient Appeals Board and the civil courts regarding the matter of involuntary admission and coercive measures. Hence, the patient's case can in most situations potentially be tried in four instances, thereby ensuring the legal protection of the patient's rights.*

*Lastly, the Ministry notes that the patients have a right to a patient adviser, who must assist the patient with all matters regarding the patient's stay and treatment at the psychiatric ward, here amongst if the patient wishes to complaint, cf. the Danish Mental Health Act, Section 24 (2).*

### **Paragraph 185 in CPT's report**

#### CPT's observation concerning paragraph 184:

- However, it strongly recommends that the Danish authorities take the necessary steps, including at legislative level, to ensure that the retention of a voluntary patient and the reviews of every involuntary placement or retention decision require the opinion of a doctor who is independent of the department holding the patient concerned. Such external ex officio reviews should be carried out – in addition to the internal reviews – at least after six months and thereafter at regular intervals by an independent authority, preferably a court. During the review procedure, the patient should have the right to be heard and benefit from free legal assistance.

*The Ministry of Health has taken note of CPT's recommendation regarding an ex officio review of retention. However, as stated in the Ministry's reply to paragraph 149 in CPT's report from 2014, the Ministry has no plans to alter the current arrangement at this time.*

*As mentioned in the Ministry's reply to paragraph 149 in CPT's rapport from 2014, the conditions in the Danish Mental Health Act Section 5, as described in the Ministry's reply to paragraph 183, must be met before an involuntary admission. If the conditions are not met, the patient must be discharged.*

*In addition, it must be noted in a special protocol if a patient is exposed involuntary admission or coercive measures.*

*Finally, the Ministry refers to the Ministry's reply to paragraph 183, where it appears that the patient can complaint to both the Psychiatric Patient's Complaints Board, the Psychiatric Patient Appeals Board and the civil courts and that the patient has a right to a patient adviser.*

### **Paragraph 186 in CPT's report**

#### CPT's observation concerning paragraph 186:

- The CPT therefore reiterates its recommendation that these precepts be implemented in practice.

*Sikringsafdelingen has informed the Ministry of Health that this is not correct.*

*It is unclear what the staff has reported to the CPT during the visit, but there may have been a mix-up regarding previously used practice at Psychiatry West, where patients were allowed to request voluntary belt restraint. However, also in the cases with voluntary belt restraint, approval from a consultant was always required, compulsory treatment protocols etc. were to be completed etc.*

*The use of voluntary belt restraint has been changed, however, and no longer occurs today, as it turned out that the patient's experience of the situation often changed quickly, and the legal basis therefore became unclear. Instead, work is being done to give patients methods other than belt restraint to deal with anxiety and unrest.*

### **Paragraph 188 in CPT's report**

CPT's observation concerning paragraph 188:

- The CPT recommends that regular ex officio reviews of any involuntary forensic placement decision are carried out at least once every six months by an independent authority, preferably a court. Such reviews should be based on the opinion from a doctor who is independent of the department holding the patient concerned.

*The Director of Public Prosecutions has informed the following:*

*"It is stated in the Danish Criminal Code section 72(2), that if a request for vary or finally removal of measure from a convicted person is not allowed, a new request cannot be made for the first six months following the date of the order. Once the convicted person has submitted such a request, the case is brought before the court when the necessary basis for a court hearing has been provided, e.g. a statement from the hospital / institution on the status of treatment of the convicted person, including a statement on whether it can be recommended that the measure is varied or finally removed. In cases where the convicted person has been subject to supervision by the Danish Prison and Probation Service, a statement from the Danish Prison and Probation Service is also obtained.*

*Subsequently, the State Prosecutor – possibly, after the case has been submitted to the Medico-Legal Council – decides which claim the prosecution must make during the proceedings in court.*

*The police districts do not provide written information to the convicted person about the possibility of judicial review pursuant to section 72 of the Criminal Code in connection with execution of the measure. The regional State Prosecutors have stated that they are not aware that other authorities should inform the convicted person in writing. If the sentenced measure includes the option of hospitalization or placement, the person in question will be appointed a guardian to assist the convicted person in, among other things, making requests for judicial review.*

*In the opinion of the State Prosecutors, the current control of sentenced special measures is sufficient, cf. section 72(1) of the Criminal Code. A statement is obtained once a year from the executing/supervisory authorities, which for the psychiatric patients is the chief physician and the Danish Prison and Probation Service, respectively (if the measure contains a supervision by the Danish Prison and Probation Service). In addition, the chief physician or the Danish Prison and Probation Service have the option of sending an unsolicited statement with a recommendation in case of changed circumstances to the Prosecution Service, just as the convicted person, the guardian, the management of the institution or the Danish Prison and Probation Service can request the case to be brought before the court.*

*It is necessary to observe the convicted person for a longer period. This is why the convicted person, in order for the measure to be varied or finally removed will usually have to be stable for a longer period of time before it is possible to conclude that the measure is no longer necessary to prevent a return to criminal behaviour. Based on this, the regional State Prosecutors find that semi-annual statements about the convicted person's condition and circumstances will be too frequent. Finally, the use of resources for both the treatment institutions and the Prosecution Service should also be taken into account.*

*It should be noted that paragraph 188 in the report shows factual inaccuracies, which gives a vague picture of how the cases are handled in practice.*

*The vast majority of convicted with a measure, (apart from people convicted to be placed in an institution as a result of a measure [in Danish: Domsanbragte]), are not hospitalised throughout the period. This is why*

*they in general are not deprived of liberty when they are released from hospital, but they can be hospitalised or rehospitallised according to the sentence if the chief physician and the Danish Prison and Probation Service (if the measure contains supervision by the Danish Prison and Probation Service) considers it necessary to prevent new crime.*

*It also appears from paragraph 188 that the trial usually takes place in the hospital. This is factually incorrect, as the cases are usually heard in court, where the convicted person has the opportunity to be present. However, at Slagelse Hospital, the secure institution in Slagelse, it is possible to set the court in the institution's courtroom.*

*Finally, the reference to section 68 and/or section 69 a of the Criminal Code is inaccurate, as section 68 of the Criminal Code is a legal basis for imposing a measure on a person covered by both section 16 and 69 of the Criminal Code. Section 69 a of the Criminal Code relates to the stipulation of a maximum period for a measure for a person convicted pursuant to section 69 of the Criminal Code, cf. section 68.”*