

**EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND  
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)**



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**REPORT**  
**TO THE DANISH GOVERNMENT**  
**ON THE VISIT TO DENMARK CARRIED OUT BY**  
**THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE**  
**AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**  
**(CPT)**

**FROM 23 MAY TO 3 JUNE 2024**

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Adopted on 8 November 2024

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## EXECUTIVE SUMMARY

In the course of the 2024 periodic visit to Denmark, the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) examined the treatment and safeguards afforded to persons deprived of their liberty by the police as well as the treatment and conditions of detention of prisoners, foreign nationals detained pursuant to aliens' legislation and psychiatric patients.

The delegation visited **police establishments** in Aarhus, Albertslund, Bellahøj (Copenhagen), Horsens and Odense. Further, in the prisons visited, the delegation spoke with newly-arrived remand prisoners about their treatment by the police.

Most of the interviewed persons in police custody and on remand told the delegation that they had been treated by the police in a correct manner. The delegation did not receive any allegations of ill-treatment during police interviews. A few allegations were heard of excessive use of force during apprehension and of too tight handcuffing behind the back, both at the time of arrest and during the subsequent transfer in a police vehicle.

The delegation found that persons in police custody were as a rule allowed to notify their next-of-kin of their deprivation of liberty within a reasonable time, either directly or through the police. All detained persons interviewed by the delegation confirmed having been offered access to a lawyer, including an *ex officio* lawyer, although some persons stated that they had only met their lawyer shortly before their first appearance in court.

At the police stations visited by the delegation, access to a doctor was provided, either systematically or at the very least whenever the detained persons had visible injuries, were intoxicated, agitated or expressed any health-related complaints. The delegation also noted that the police systematically informed detained persons of their rights, first orally immediately upon apprehension and subsequently in a written form upon arrival to the police station, by means of an information sheet available in a variety of languages. The CPT was pleased to note that the information sheet now included information on available avenues of complaint against the treatment by the police.

The CPT also noted positively the increased recourse to electronic recording of police interviews; another positive finding was that the training in research-based police interviewing techniques appeared to be in line with CPT standards. That said, although most of the interviewed persons had no complaints regarding the manner in which they had been questioned, a few allegations were received that some police officers would have initiated so-called "informal talks" encouraging detained persons to "cooperate" prior to the beginning of the formal police interview; that is, before the persons concerned were given the possibility to benefit from the legal safeguards for persons in police custody. If true, such practices would be contrary to the aforementioned modern research-based and human rights focussed approach to police interviewing.

Material conditions in the police establishments visited were generally in compliance with the CPT's standards in terms of size, equipment, lighting, ventilation and state of repair and cleanliness, especially given the short detention periods.

The majority of the detained foreign nationals interviewed by the delegation at **Ellebæk Centre for Foreigners** stated that they were being treated by staff in a correct manner. Inter-detainee violence did not appear to be a major problem and whenever it did occur, staff seemed to react quickly and appropriately.

The material conditions of detention had considerably improved at Ellebæk Centre since the 2019 visit, mainly due to extensive refurbishment and lower occupancy levels. However, despite repeated criticism by the CPT and other international and national stakeholders, the environment remained prison-like. This was demonstrated *inter alia* by the presence of barred windows, barred gated partitions between the units and the fact that the establishment was staffed by custodial prison officers carrying handcuffs and pepper spray. Furthermore, prison rules (pursuant to the Criminal Enforcement Act) were applied by analogy to detained foreign nationals. Urgent action should be taken to change this situation given that the foreign nationals detained at Ellebæk Centre were neither criminal suspects nor serving a prison sentence.

The Committee reiterates its view that immigration detention is a form of administrative detention and should be clearly distinguished from imprisonment as a punishment for a criminal offence. Therefore, any impression of a carceral environment should, as far as possible, be avoided. The emphasis should be on minimum internal security regulations and the promotion of normality. The Danish authorities should take steps to eliminate all prison-like features at Ellebæk Centre, taking into account the above remarks.

Detained foreign nationals benefitted from an open-door regime under which they could freely associate with other detainees from the same unit. Approximately half of detained foreign nationals had a paid job. Further, an activity centre had been made available in a separate building. However, many detained foreign nationals appeared not to be aware of the availability of the above-mentioned activities and thus spent most of their days idly. While many detained foreign nationals stayed at Ellebæk Centre for relatively short periods (up to several weeks), much longer stays (up to several months) were not uncommon. The Committee therefore reiterates its view that the longer the period for which foreign nationals are detained, the more developed should be the offer of activities available to them. Further, steps should be taken to ensure that all detained foreign nationals have in principle free access to an appropriate outdoor area throughout the day, including on weekends.

Given the low occupancy levels at Ellebæk Centre at the time of the visit, the overall presence of health care staff could be considered as generally adequate. However, newly arrived detained foreign nationals were still not subject to a comprehensive medical examination on admission. The Danish authorities must ensure that all detained foreign nationals newly admitted to Ellebæk Centre benefit from a prompt physical examination carried out by a doctor or a nurse reporting to a doctor.

The custodial staff complement appeared to be adequate for the currently low occupancy levels but they still did not receive any specialised training for working with detained foreign nationals. Steps must be taken to ensure that all staff (in particular custodial officers) working at Ellebæk Centre are given specific training for working with foreign nationals.

The CPT also made other comments and recommendations, *inter alia* about the use of disciplinary solitary confinement (stressing that it should never be applied for more than 14 days, due to the potentially very damaging effects of this measure to the mental health of the persons concerned), access to the telephone (which should be improved) and the provision of written information to detained foreign nationals.

The CPT's delegation visited several **prisons**, including the Western Prison and Police Square Prison in Copenhagen, as well as Nyborg and Enner Mark Prisons.

At the outset of the visit, senior officials from the Ministry of Justice informed the CPT delegation that the Danish prison system had for the past several years operated above its intended capacity, the rate of overcrowding being the highest in respect of remand prisoners (103%) and sentenced inmates accommodated in closed prisons (102%). Indeed, the four prisons visited were operating at their full capacity or were even slightly overcrowded all prisoners still enjoyed at least 4 m<sup>2</sup> of living space.

Measures taken by the Danish authorities to respond to the increase in the prison population consisted essentially of building new prisons. In this context, the CPT reaffirmed its view that building new prisons cannot by itself provide a lasting solution to the overcrowding problem. This can only be achieved by combining the modernisation of the prison estate with an increased resort to alternatives to imprisonment. The Danish authorities should step up their efforts to ensure that all prisons operate within their official capacities and, to this end, a comprehensive strategy and action plan should be drawn up to manage the prison population, with precise deadlines and budget allocations.

On 23 May 2024, the Kosovo Parliament ratified the bilateral treaty foreseeing the operation of a prison in Gjilan (Kosovo) by the Danish Prison and Probation Administration (DPPA), and the potential transfer there of up to 300 foreign national prisoners sentenced by Danish courts to deportation in addition to a term of imprisonment. The CPT considers that the treaty could potentially raise a number of issues of concern. Among others, the bilateral treaty stipulates that criminal offences committed by Kosovo prison staff working in Gjilan Prison are to be prosecuted by Kosovo authorities, which would amount to a partial relinquishing of jurisdiction for matters that should in principle fall within the responsibility of the Danish authorities. Furthermore, the treaty would appear to be in contradiction with key principles underpinning the Council of Europe Convention on the Transfer of Sentenced Persons.

The delegation received no allegations of deliberate ill-treatment by custodial staff at any of the prisons visited. In all the prisons visited, the delegation found that staff behaved generally in a professional and respectful manner, and many inmates spoke positively about prison officers. As for inter-prisoner violence, it did exist but did not seem to be a major problem in the prisons visited, which was both remarkable and commendable given the presence of many members of warring gangs and of other prisoners who could not be allowed to associate given the high risk of conflict and abuse. Despite the less-than-optimal staffing levels, prison officers generally succeeded in keeping all inmates safe and intervened quickly and effectively whenever any instances of inter-prisoner violence occurred.

As for the material conditions, in all the prisons visited the delegation found the cells to be generally suitably furnished, well-lit and ventilated, clean and in a good state of repair. The best material conditions were observed at Enner Mark Prison which should serve as a reference for the whole prison system. In the other prisons, conditions were also generally adequate despite the occasional wear-and-tear at Nyborg and Western Prisons. In those two establishments, the “jalousies” (shutters) were being gradually installed on cell windows, reportedly to prevent prisoners of different categories from communicating with each other. Whilst access to natural light and fresh air seemed adequate, these devices severely restricted the view from inside the cells, which was particularly problematic for prisoners who were segregated or in high-security units and who often spent 23 hours per day inside their cells.

By far the most problematic issue observed yet again was the absence of in-cell toilets in most of the cells at Nyborg, Police Square and Western Prisons, especially when combined with custodial staff shortages. The delegation heard numerous complaints by prisoners at Nyborg and Western Prisons regarding long delays in access to (and return from) communal toilet facilities, especially at night. The Danish authorities must take resolute steps to ensure that all prisoners have unimpeded access to toilet facilities without undue delay at all times (including at night). Preferably, all cells should be equipped with in-cell toilets. The Danish authorities should put in place a detailed and budgeted action plan, with clear and realistic deadlines, to achieve this goal.

The CPT gained a very positive impression of the regime at Enner Mark Prison where the great majority of prisoners could work and were allowed to associate with fellow prisoners and engage in other activities. The situation was less favourable in the other prisons visited, with approximately a third of the inmates being involved in work or education at the Western Prison and about half at Nyborg Prison.

Both prisons accommodated some segregated and high security prisoners as well as numerous remand prisoners, who were offered a fairly impoverished regime, spending between 21 and 23 hours per day inside their cells, often for long periods, that is for months and sometimes even years. The Danish authorities should take steps to develop adequate programmes of activities for remand prisoners and sentenced prisoners obliged to remain in remand sections. They should also take measures to offer segregated and high-security prisoners structured programmes of constructive activities, preferably outside the cells, based on individual projects intended to provide prisoners with appropriate mental and physical stimulation.

In all the prisons visited, inmates had access to health care, both primary and secondary. However, apart from the Western Prison, none of the prison establishments benefited from a 24/7 health-care staff coverage, with no health-care staff being present after 3 - 4 p.m. or on weekends. This was clearly problematic given the size and characteristics of the prisoner populations in the larger establishments (i.e. Nyborg and Enner Mark Prison) which were accommodating many remand prisoners for whom these establishments represented a point of entry into the prison system.

Further issues of concern were the impact of custodial staff shortages on the provision of health care (with scheduled appointments with doctors having to sometimes be cancelled because there was not enough custodial staff on duty to provide escorts), the inadequacy of access to mental health care (despite recent positive efforts to recruit prison psychologists and to secure the presence of psychiatrists), the legal discrimination of foreign prisoners (who were as a rule only entitled to primary and emergency care) and the persistent absence of systematic and prompt medical screening of all newly-arrived prisoners. On this last subject, the CPT stressed once again that the initial medical screening of all persons admitted to a prison should be obligatory, not optional.

The CPT also commented on a number of other issues such as discipline, the use of "observation" and "security" cells (as well as recourse to fixation), contact with the outside world and complaints procedures. Among others, the Committee strongly reiterated its position that disciplinary solitary confinement should never be imposed for more than 14 days and that solitary confinement as a disciplinary punishment for juveniles should be abolished in Denmark. Further, the CPT called upon the Danish authorities to limit the duration of prisoners' placements in "observation cells", to abolish the practice of fixation of prisoners for security reasons and to ensure that all remand prisoners, without exception, effectively benefit from the entitlement of at least one visit lasting one hour every week.

The CPT's delegation visited two **psychiatric establishments**, namely the Psychiatric Departments of Aarhus University Hospital and the Glostrup Psychiatric Centre.

It should be underlined that no allegations of physical ill-treatment by staff were heard from the patients interviewed by the delegation at either of the psychiatric establishments visited. On the contrary, the vast majority of the interviewed patients spoke very positively about the staff and the delegation observed for itself that many staff members displayed a caring and professional attitude vis-à-vis the patients, as well as a high level of professional commitment. As for inter-patient violence, it did not appear to be frequent and staff seemed to react quickly and appropriately whenever any such violence occurred.

The delegation was positively impressed by the excellent living conditions at Aarhus University Hospital, an establishment which had clearly been thoughtfully designed and which provided a positive therapeutic milieu for the patients. This applied in particular to the Forensic Department, where patients were accommodated in a secure yet non-carceral environment.

The therapeutic staff complement at the Psychiatric Departments of Aarhus University Hospital could be assessed as being fully adequate (and even generous).

Further, based on interviews with patients and healthcare staff and an examination of relevant medical documentation, patients at Aarhus University Hospital were offered adequate pharmacotherapy. The range of individual and group therapeutic activities, some of which were also offered during weekends, was excellent.

For many years, a major concern for the CPT has been the high frequency of recourse to and long duration of measures of restraint, including mechanical restraint (fixation) in Danish psychiatric establishments. The CPT acknowledges the considerable efforts made by the Danish authorities over recent years to reduce the recourse to means of restraint and notably fixation; these efforts must continue.

The CPT also examined the legal safeguards in the context of involuntary psychiatric hospitalisation and treatment and *inter alia* reiterates that steps should be taken to ensure that the internal review of “civil” involuntary hospitalisation requires the opinion of a doctor independent of the psychiatric department accommodating the patient concerned. In addition, the frequency of *ex officio* judicial reviews should be increased for patients detained under a forensic placement decision, to once per year for example. Further, the current legislation should be amended so as to introduce the requirement of obtaining an external psychiatric opinion in the context of such judicial review.



## I. INTRODUCTION

### A. The visit, the report and the follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Denmark from 23 May to 3 June 2024. The visit formed part of the CPT’s programme of periodic visits for 2024 and was the Committee’s eighth visit to Denmark.<sup>1</sup>

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

- Vânia Costa Ramos, Head of the delegation
- Gergely Fliegau
- Marie Kmecová
- Asbjørn Rachlew
- Elsa Bára Traustadóttir
- Elisabetta Zamparutti.

They were supported by Borys Wódz (Head of Division), Monica Martinez and Almut Schröder from the CPT’s Secretariat, and assisted by:

- Pétur Hauksson, psychiatrist, former Head of the Psychiatric Department at Reykjalundur Rehabilitation Centre, Iceland (expert)
- Veronica Pimenoff, psychiatrist, former Head of Department at Helsinki University Psychiatric Hospital, Finland (expert)
- Farida A. Christensen (interpreter)
- Heidi Flegal (interpreter)
- Thomas Harder (interpreter)
- Dorthe Kjaer (interpreter)
- Karen Rosén (interpreter).

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<sup>1</sup> The CPT has previously carried out six periodic visits (in 1990, 1996, 2002, 2008, 2014 and 2019) and one ad hoc visit (in 2012) to Denmark. All the Committee’s reports and responses of the Danish authorities to date are in public domain (<https://www.coe.int/en/web/cpt/denmark>) upon the authorities’ request and pursuant to the automatic publication procedure introduced by the Danish authorities in 2018. According to this procedure, all documents related to CPT visits shall be published automatically, unless the Danish authorities submit within two weeks a request to postpone (for a period of up to six months) the publication of the document concerned.

3. The list of the establishments visited by the CPT's delegation can be found in Appendix I.
4. The report on the visit was adopted by the CPT at its 115<sup>th</sup> meeting, held from 4 to 8 November 2024, and transmitted to the Danish authorities on 15 November 2024. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Danish authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

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

5. In the course of the visit, the delegation had consultations with Carsten Madsen, Deputy Permanent Secretary at the Ministry of Justice, Andreas Jull Sørensen, Deputy Permanent Secretary at the Ministry of the Interior and Health, Christina Fløystруп, Head of Division for Return and Readmission at the Ministry of Immigration and Integration, as well as with other senior officials from the above-mentioned Ministries.

Further, the delegation met Niels Fenger, Parliamentary Ombudsman, in his capacity as the Danish National Preventive Mechanism (NPM). It also met representatives of several non-governmental organisations active in areas of concern to the CPT.

The list of the national authorities, other bodies and organizations met by the delegation is set out in Appendix II to this report.

6. The CPT is pleased to note that the co-operation received by its delegation throughout the visit was excellent at all levels. The delegation enjoyed rapid access to the establishments visited (including those which had not been notified in advance), was promptly provided with all the requested information and documents (including medical files) and was able to speak in private with all the persons deprived of their liberty it wished to interview. The support provided before and during the visit by the CPT's Liaison Officer, H el ene Fester from the Ministry of Foreign Affairs, was very much appreciated.

7. That said, the Committee wishes to stress that the principle of co-operation set out in Article 3 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is not limited to facilitating the work of visiting delegations; it also requires that recommendations made by the Committee are effectively implemented in practice.

In this respect, the CPT is concerned by the slow progress (or even the absence of progress) in the implementation of some of its long-standing recommendations including as regards the practical implementation of the legal safeguards against ill-treatment of persons in police custody, the carceral material conditions and prison-like regime at Elleb ek Centre for Foreigners, the material conditions (especially access to a toilet) in prisons and the restrictive regimes for remand prisoners and other inmates subjected to segregation or solitary confinement, the health care services for prisoners and the recourse to mechanical restraint (fixation) in prisons and psychiatric establishments.

8. Detailed comments and recommendations on the aforementioned subjects are set out further in this report.<sup>2</sup> However, already at this stage, the Committee must stress that it expects the Danish authorities to be in a position to inform the CPT, in their response to this report, of decisive steps taken to implement the Committee's recommendations on the subjects referred to above, in accordance with the principle of co-operation which lies at the heart of the Convention.

Pending the receipt of the above-mentioned response, the CPT proposes to hold high-level talks between its representatives and senior (political level) Danish officials, in order to discuss ways to improve the implementation of its long-standing recommendations. A letter on this subject was sent to the Danish authorities at the same date as this report, namely on 15 November 2024.

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<sup>2</sup> See paragraphs 13, 16, 17, 18, 31, 33 to 35, 68, 71, 74 to 86, 107 to 112 and 139 to 158 below.

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

### A. Police establishments

#### 1. Preliminary remarks

9. At the time of the visit, the general legal framework governing police custody was by and large the same as the one which had been summarised in the report on the CPT's 2019 visit.<sup>3</sup>

It is recalled that a person suspected of having committed a criminal offence can be held by the police on their own authority for up to 24 hours. Within that period, the person must be released or brought before a judge, who may extend police custody for a further 72 hours.<sup>4</sup> Thus, a criminal suspect may remain in police custody for up to 4 days.

It is also recalled that, pursuant to the Police Act, the police may administratively detain a person who endangers public order, the safety of individuals or public security, for a period not exceeding 6 hours or, in the context of public gatherings and crowds, 12 hours.<sup>5</sup> In addition, the police may hold a person due to illness or other incapacity (e.g. intoxication with alcohol and/or other substance); in such cases, the deprivation of liberty must be as brief as possible.<sup>6</sup>

Further, under the Aliens Act, foreign nationals may be detained by the police for a maximum of 3 days, for a number of reasons, in particular to ensure their removal or to guarantee the completion of proceedings concerning their stay in the country.<sup>7</sup>

The delegation's findings suggest that, in practice, the duration of police custody tends to be short – often well below the above-mentioned statutory time-limits. By way of example, police custody of criminal suspects did not as a rule exceed 6 hours in the police establishments visited by the delegation. Moreover, persons who had to be detained overnight were usually transferred to a local remand prison.

10. As regards the duties of the police mentioned in Section 10 of the Police Act,<sup>8</sup> the delegation observed in the psychiatric establishments visited (see paragraphs 149 to 151 below) that the police often detained and brought to those establishments persons deprived of their liberty for the purpose of involuntary psychiatric hospitalisation procedure (both "civil" and forensic). It would also appear that detained persons would frequently be handcuffed whilst being transported to psychiatric establishments. In this connection, **the CPT would like to be informed of the details of the rules of police conduct (including as regards the resort to handcuffs<sup>9</sup> and other means of coercion) with respect to persons being brought against their will to psychiatric establishments. The Committee would also like to be informed of any special training provided to police officers in this particular context.**

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<sup>3</sup> See paragraph 9 of document CPT/Inf (2019) 35.

<sup>4</sup> See Article 71 (3) of the Danish Constitution and Section 760 of the Administration of Justice Act.

<sup>5</sup> See Sections 5 (3), 8 (4) and 9 (3) of the Police Act.

<sup>6</sup> See Section 10 of the Police Act.

<sup>7</sup> See Sections 35 to 37 of the Aliens Act and paragraph 24 below.

<sup>8</sup> As well as in the Mental Health Act, see paragraph 149 below.

<sup>9</sup> On this, see also the CPT's general recommendation concerning the use of handcuffs by the police set out in paragraph 11 of the report on the 2008 visit (CPT/Inf (2008) 26): "As regards handcuffing during transportation, it should be resorted to only when the risk assessment in the individual case clearly warrants it and be done in a way that minimises any risk of injury to the detained person."

Concerning the presence of police officers inside psychiatric establishments after having brought detained persons there, and the role performed by police officers in the context of application of means of restraint vis-à-vis persons hospitalised against their will, reference is made to the remarks and recommendations in paragraph 150 below.

## 2. Ill-treatment

11. The delegation visited police establishments in Aarhus, Albertslund, Bellahøj (Copenhagen), Horsens and Odense. Further, in the prisons visited, the delegation spoke with newly-arrived remand prisoners about their treatment by the police.

Most of the interviewed persons in police custody and on remand told the delegation that they had been treated by the police in a correct manner. The delegation did not receive any allegations of ill-treatment during police interviews. A few allegations were heard of excessive use of force during apprehension (mainly consisting of violently pushing the person to the floor) and of too tight handcuffing behind the back, both at the time of arrest and during the subsequent transfer in a police vehicle.

**The CPT recommends that it be recalled to all police officers, in suitable intervals, 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 must never be excessively tight<sup>10</sup> and should only be applied for as long as is strictly necessary.**

## 3. Safeguards against ill-treatment

12. The CPT has consistently emphasised the importance it attaches to the fundamental safeguards for persons deprived of their liberty by the police, in particular the right of the persons concerned to inform a relative or a third party of their choice of their situation, the right of access to a lawyer and the right of access to a doctor. It is recalled that these rights should be enjoyed by all categories of persons deprived of their liberty and should apply from the very outset of their deprivation of liberty. Furthermore, persons deprived of their liberty by the police must be expressly informed, without delay and in a language they understand, of all their rights.

In this context, the delegation learned with interest that a dedicated team of officers had been tasked at Odense Police Headquarters with overseeing staff's compliance with the safeguards for persons in police custody. **This is an example of a good practice which merits being adopted throughout the country.**

13. The delegation found that persons in police custody were as a rule allowed to notify their next-of-kin of their deprivation of liberty within a reasonable time, either directly or through the police. Any delays in notification were found to be exceptional, limited in time and duly motivated in writing.

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<sup>10</sup> It is noteworthy in this context that new models of handcuffs, preventing their excessive tightening when a person resists, are now available on the market.

That said, despite the recommendations made by the CPT in its previous reports, no measures have been taken to better circumscribe the power of the police to postpone, for investigation purposes, the right to inform a relative or a third person. **The Committee thus reiterates its recommendation that the existing legal provisions be amended so as to subject any delay in the notification of custody to the approval of a senior police officer unconnected with the case at hand or a prosecutor.**

14. The delegation observed that the police generally facilitated detained foreign nationals' contacts with their consular or diplomatic representatives, although there seemed to be exceptions to this rule, with foreign nationals reportedly sometimes only being informed of this right after they had arrived at a remand unit of a prison.<sup>11</sup> **The CPT recommends that the Danish authorities take appropriate steps to prevent such delays from occurring in the future.**

15. All detained persons interviewed by the delegation confirmed having been offered access to a lawyer, including an *ex officio* lawyer, although some persons stated that they had only met their lawyer shortly before their first appearance in court. That said, it emerged from the delegation's interviews that criminal suspects were systematically informed by the police, at the time of apprehension, of their right to remain silent. Further, it seemed that the police would generally respect the wish of detained persons not to give any statements prior to the arrival of their lawyer.<sup>12</sup>

16. At the police stations visited by the delegation, access to a doctor was provided, either systematically or at the very least whenever the detained persons had visible injuries, were intoxicated,<sup>13</sup> agitated or expressed any health-related complaints. The delegation found in the relevant records instances where the doctor would recommend release or transfer to a health-care facility of the person due to the person's state of health (a recommendation usually followed by the police); on other occasions doctors would not object to the continuation of detention but would instruct police officers to carry out regular checks (e.g. every hour) in order to be able to alert the health-care services whenever the person's condition worsened. In some cases, the delegation saw notes by doctors stating that detained persons had been advised to consult their family doctors after release.

The delegation's medical experts confirmed that injuries observed on detained persons were recorded, albeit rather superficially and generally without attempts made by doctors to assess consistency of the injuries with any statements made by detained persons. Further, medical confidentiality was not fully respected given that medical certificates drawn up by doctors called to the police stations<sup>14</sup> were part of detained persons' files, accessible also to non-medically trained police staff. **The Committee recommends that the aforementioned lacunas as regards the recording of injuries and confidentiality of medical data be remedied.**

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<sup>11</sup> Or, in the case of foreign nationals detained pursuant to aliens legislation, after their arrival at Ellebæk Centre for Foreigners, see paragraphs 24 to 58 below.

<sup>12</sup> See, however, paragraph 20 below.

<sup>13</sup> Police officers performed frequent (at least every 15 minutes) and well documented checks on all intoxicated and otherwise agitated persons (that is, all those placed in *detentioner* cells, see paragraph 21 below).

<sup>14</sup> All police stations had contracts with several doctors who could be called in case of need; further, in emergency the police would call an ambulance.

17. The delegation noted that the police systematically informed detained persons of their rights, first orally immediately upon apprehension and subsequently in a written form upon arrival to the police station, by means of an information sheet available in a variety of languages. The delegation was pleased to note that the aforementioned information sheet had been amended in accordance with an earlier CPT's recommendation, by adding information on available avenues of complaint against the treatment by the police.

That said, not all persons with whom the delegation spoke confirmed having been provided with the information sheet. **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, upon their arrival at police premises, of a written information sheet setting out their rights in a simple and accessible language. This information sheet should be available in an appropriate range of languages. Further, detained persons should be allowed to keep the information sheet with them.**

18. The information gathered during the visit suggests that whenever a juvenile was taken into police custody, the police would systematically inform competent social services and, as appropriate, the juvenile's parent or other legal guardian. Further, a juvenile would never be questioned without the presence of at least a representative of social services.

However, despite the recommendation made by the Committee in the report on the 2019 visit, it remained the case that lawyers were neither systematically contacted nor present during such questioning. **The CPT reiterates its recommendation that the relevant legal provisions be amended 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. The option “does not wish to see a lawyer” should never apply to juveniles.**

19. The delegation noted as a positive development the increased recourse to electronic recording of police interviews; in fact, several police officers with whom the delegation spoke (especially those dealing with investigating serious organised crime) expressed the view that such recording should become mandatory in all cases. **The Committee recommends that the Danish authorities seriously consider taking such a step.**

Another positive finding was that the training in research-based police interviewing techniques (following the so-called “Basic and Advanced SAKA Models”) appeared to be in line with the CPT standards.<sup>15</sup> “Basic SAKA Model” was applied to initial training in the Police Academy and “Advanced SAKA Model” to ongoing training, especially for officers investigating serious organised crime. It is worth mentioning that, at the end of the visit, the Danish authorities informed the delegation that the guidelines setting out aforementioned training models (which were still classified at the time of the visit) would be made public in the beginning of 2025.

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<sup>15</sup> See paragraphs 73 to 81 of document CPT/Inf(2019)9-part (“Preventing police torture and other forms of ill-treatment – reflections on good practices and emerging approaches”). In particular, the training emphasized that the purpose of the interview is not to “hunt for evidence” but to gather information based on a non-judgmental procedure, including the establishing of a rapport, facilitating the suspect's free account, active listening and strategic use of evidence.

Most of police officers with whom the delegation spoke confirmed that they had indeed received such training, both initially and on an ongoing refresher basis.<sup>16</sup> The delegation was also informed that since 2016, some 1500 police officers had received such training at the Police Academy, in addition to a further 1500 who had followed courses organised locally. This continuous training effort by the Danish authorities is indeed commendable.

At some of the police establishments visited (in particular Bellahøj Police Station in Copenhagen), the delegation saw dedicated interview rooms which were of an excellent standard, equipped with audio-video recording devices and furnished in a pleasant non-oppressive manner (comfortable chairs, sofas and tables, pictures, plants and big windows letting in plenty of natural light). In the opinion of police officers using those premises, their layout greatly facilitated their work by stimulating free communication with the suspects. In the CPT's view, **such dedicated interview rooms should be the norm in all police establishments and their use should be made mandatory under the aforementioned SAKA Model, to be updated as necessary.**<sup>17</sup>

20. Although most of the interviewed persons had no complaints regarding the manner in which they had been questioned, the delegation did receive a few allegations that some police officers would have initiated so-called "informal talks" encouraging detained persons to "cooperate" prior to the beginning of the formal police interview, that is before the persons concerned were given the possibility to benefit from the legal safeguards for persons in police custody (notification of custody, access to a lawyer and to a doctor, and information on rights).

If proven true, such practices would be contrary to the aforementioned modern research-based and human rights focussed approach to police interviewing.<sup>18</sup> Persons in police custody should never be questioned by the police without benefiting from safeguards provided for by law, in particular the right of access to a lawyer. **The CPT would like to receive the Danish authorities' observations on this subject.**

In this context, the Committee also wishes to stress that **the aforementioned introduction of mandatory electronic recording of all police interviews (from their very start including the information on the suspect's legal rights) would help fully eradicate the practice of "informal talks"**.

#### 4. Conditions of detention

21. Material conditions in the police establishments visited, both in the holding cells mostly used to accommodate criminal suspects (*venterum*) and in cells for intoxicated and agitated persons (*detentioner*), were generally in compliance with the CPT's standards in terms of size (single cells measuring between 6 and 10 m<sup>2</sup>), equipment (a washable mattress in *detentioner*, a bench in *venterum*, fire-proof blankets, call system in all cells), lighting (although, except in those at Bellahøj Police Station, there was no access to natural light in *venterum* cells), ventilation and state of repair and cleanliness, especially given the short detention periods (see paragraph 9 above). In all police stations, detained persons had access to good quality communal toilets (and sometimes also a shower), and arrangements were in place to provide food at normal meal times.

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<sup>16</sup> Refresher training was in the form of a 5-day course referred to as "Afhøring II".

<sup>17</sup> If electronic recording of police interviews becomes indeed mandatory, the SAKA Model will need to be further updated to reflect this.

<sup>18</sup> As well as the Méndez Principles, see <https://interviewingprinciples.com/>.



At Bellahøj Police Station, the delegation saw that both the *venterum* and the *detentioner* had windows letting in natural light. **The Committee invites the Danish authorities to make efforts to adopt a similar design in all cells at police stations, especially as regards newly constructed or refurbished facilities.**

22. The delegation noted that prior to placement in a cell, persons in police custody were occasionally subjected to a strip search, in which they had to remove all their clothes (i.e. strip down), instead of following a two-step procedure (first the upper, then the lower body) as recommended by the CPT to ensure the respect of the person's dignity. Moreover, strip searches were carried out in premises under CCTV coverage, with the footage being visible on large screens located in the operations rooms of police stations (accessible to any staff present in those rooms). **The Committee recommends that the existing rules be amended so as to introduce a two-step strip search procedure<sup>19</sup> in all police establishments and to ensure that searches are not performed in premises under CCTV surveillance.**

23. Some detained persons interviewed by the delegation complained that they had been obliged to give away their eyeglasses prior to the placement in the cell, which was a problem especially for persons whose eyesight was strongly impaired. Reportedly, police officers had referred to security rules in force. **The CPT would like to be provided with details of these rules and, in this context, would like to be informed whether taking away detained persons' eyeglasses is a routine measure or whether it is based on an individual risk assessment.**

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<sup>19</sup> Detained person should first be asked to remove upper clothes, then the search of upper body takes place, then the person may put upper clothes back on, and only after that the person is requested to take off lower clothes and is searched below the waist. The principle is that the person should never be fully naked.

## B. Immigration detention establishment

### 1. Preliminary remarks

24. The legal grounds for administrative detention of foreign nationals (“non-citizens”) in Denmark are laid out in Sections 14 to 16 of the 2023 Return Act<sup>20</sup> and Section 36 of the Aliens Act.<sup>21</sup>

According to these provisions, foreign nationals may be detained if non-custodial measures are deemed insufficient to ensure their expulsion or deportation. This is for instance the case when persons who are scheduled to be deported do not co-operate with the police in making arrangements for their deportation or if they do not comply with reporting or residence obligations (Sections 15 and 16 Return Act).

Foreign nationals can further be detained when there are reasonable grounds for suspecting that they have committed a criminal offence that may result in a sentence to deportation or if they have entered Denmark in violation of an entry ban (Section 14 of the Return Act). They may also be deprived of their liberty pursuant to the same Section 14 if they have received a criminal sentence for entering Denmark with false identity documents;<sup>22</sup> the provision in question can apply to asylum seekers too. Asylum seekers may in certain cases also be detained if they are to be deported to another European country under the “Dublin-Regulation”<sup>23</sup> (Section 29a of the Aliens Act), if they significantly hinder the investigation of their asylum case or if their asylum application is considered “manifestly unfounded” and detention is deemed necessary to ensure their presence during the examination of their asylum cases (Section 36 of the Aliens Act).

25. The maximum time-limit for detention under Section 16 of the Return Act and Section 36 of the Aliens Act is 3 months for persons “under EU rules”<sup>24</sup> and 6 months for all other foreign nationals. In exceptional cases, detention can be extended by a further 6 or 12 months respectively, thus up to a total of 9 and 18 months respectively (Section 37 (8) of the Aliens Act). However, for detention under Section 14 or 15 of the Return Act, the relevant provisions from the Administration of Justice Act apply, which do not contain a fixed maximum duration for the detention.

In the CPT’s view, a prolonged detention of persons under aliens legislation, without a time-limit and with unclear prospects for release or forced removal, could lead to a deterioration of the mental health of the individual and could easily be considered as amounting to inhuman treatment.<sup>25</sup> **The Committee therefore recommends that the relevant legislation be amended in order to introduce a proportionate absolute time-limit for all cases of detention under aliens legislation, including under Sections 14 and 15 of the Return Act.**

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<sup>20</sup> LBK nr 1014.

<sup>21</sup> LBK nr 1009.

<sup>22</sup> In such cases, criminal sanctions are based on Sections 171 and 174 of the Criminal Code.

<sup>23</sup> The “[Dublin-Regulation](#)” ensures that an asylum application lodged in one of the EU Member States is processed by (only) one Member State (as a rule, the country of entry of the foreign national into the EU). See Regulation No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

<sup>24</sup> The “EU-rules” is a concept defined in Section 2 of the Aliens Act. It covers the rules of the European Union concerning exemption from visas and cancellation of limitations of travel and taking residence in connection with the free movement of labor.

<sup>25</sup> See the CPT’s Factsheet on Immigration Detention, CPT/Inf (2017) 3, page 2.

26. The law still allows for the detention of minors under immigration legislation; however, the delegation was informed at the outset of the visit by senior officials from the Ministry of Immigration and Integration that this was resorted to only in very rare cases. Whilst welcoming this policy, **the CPT wishes to reiterate its view that – in line with a continuing trend at the European and international level – measures should be taken to fully abolish immigration detention of minors.**

27. The delegation carried out a follow-up visit to Ellebæk Centre for Foreigners (hereafter Ellebæk Centre) which had been visited by the CPT during several previous visits to Denmark, including the last visit in 2019.<sup>26</sup> At the time of the 2024 visit, Ellebæk Centre was the only administrative immigration detention centre in the country.<sup>27</sup>

Located 25 km north of Copenhagen, on the premises of former military barracks, Ellebæk Centre had the official capacity of 121 and was accommodating 51 adult male foreign nationals and one adult female; 32 of them had been detained under Section 16 of the Return Act and 20 under Section 14 of the Return Act. Most of them were awaiting deportation.

Foreign nationals detained pursuant to Section 14 of the Return Act were referred to by the Danish authorities as “remanders” (*varetægtsfængslet*) but in fact all had fully completed their prison sentences and had no further criminal cases pending (both of the above being express legal preconditions for a placement at Ellebæk Centre). In addition to their prison sentence, they had also been sentenced by court to being deported, and the reason for being held at Ellebæk Centre was precisely to secure their deportation.

The average stay at Ellebæk Centre was 28 days and the median length was 14 days (both figures referring to the year 2023). Foreign nationals were frequently held there for much longer periods. Of the persons accommodated at Ellebæk Centre at the time of the visit, 17 had been held there for more than 2 months and 5 for more than 8 months. One person had been at Ellebæk Centre for 19 months. In this context, **reference is made to the recommendation in paragraph 25 above.**

## **2. Ill-treatment**

28. The majority of the detained foreign nationals interviewed by the delegation at Ellebæk Centre stated that they were being treated by staff in a correct manner. However, the delegation did hear credible allegations of two recent incidents in the course of which custodial officers had reportedly violently pushed detained foreign nationals in reaction to minor infringements of rules. Further, similar to the situation observed during the 2019 visit, the delegation heard many allegations of some custodial staff using rude or dismissive language towards detained foreign nationals, such as like referring to them as “pigs”.

**The Committee recommends that it be recalled to all staff working at Ellebæk Centre, in suitable intervals, that any form of ill-treatment of detained foreign nationals (including verbal abuse) is illegal, unacceptable and will be punished accordingly.**

29. Inter-detainee violence did not appear to be a major problem at Ellebæk Centre and whenever it did occur, staff seemed to react quickly and appropriately.

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<sup>26</sup> See report of the CPT's 2019 visit to Denmark (CPT/Inf (2029) 35), pages 52 to 67.

<sup>27</sup> In addition, there were 10 places for persons detained under aliens legislation at Aabenraa Remand Prison.

### 3. Conditions of detention

30. It is to be stressed as a positive fact that the material conditions of detention had considerably improved at Ellebæk Centre since the 2019 visit, mainly thanks to extensive refurbishment and lower occupancy levels. Living quarters (rooms shared usually by two or three, rarely four detained foreign nationals) were suitably furnished (beds with full bedding, tables, chairs and chests) and kept clean, as were communal toilets, washrooms and showers. Personal lockers (“safety boxes”) had been made available for every detained foreign national albeit many of them were in practice not usable at the time of the visit due to missing batteries and other dysfunctions. When made aware of the problem, the Director of Ellebæk Centre assured the delegation that all the lockers would be repaired without delay. **The CPT would like to receive confirmation that this has indeed been done.**

31. However, despite the repeated criticism by the CPT and other international and national stakeholders, the environment had remained very much prison-like, as *inter alia* demonstrated by the presence of barred windows, barred gated partitions between the units and the fact that the establishment was staffed by prison officers who were carrying handcuffs and pepper spray;<sup>28</sup> furthermore, prison rules (pursuant to the Criminal Enforcement Act) were applied by analogy to detained foreign nationals. This is unacceptable given that none of the foreign nationals detained at Ellebæk Centre were criminal suspects or serving a prison sentence at the time of their detention there.

The Committee must reiterate its view that immigration detention is a form of administrative detention and should be clearly distinguished from imprisonment as a punishment for a criminal offence. Therefore, any impression of a carceral environment should, as far as possible, be avoided. The emphasis should be on minimum internal security regulations and the promotion of normality. The Committee will come back to these precepts in several other parts of the present chapter (see paragraphs 35, 44, 47 and 53 below). **The CPT recommends that the Danish authorities take steps to eliminate all prison-like features at Ellebæk Centre, taking into account the above remarks.**

32. The delegation observed that when married couples were placed at Ellebæk Centre, they were separated and accommodated in the men’s and women’s sections respectively. That said, they could reportedly meet almost every day for a few hours in the visiting area.

The CPT is of the view that when members of the same family are detained under immigration legislation, every effort should be made to avoid splitting up the family. The Director of Ellebæk Centre told the delegation that she was aware of the problem and was trying to find a way to accommodate couples together (unless one of them opposes). **The Committee requests to be informed whether such a solution has now been found.**

33. Detained foreign nationals benefitted from an open-door regime<sup>29</sup> under which they could freely associate with other detainees from the same unit. Approximately half of detained foreign nationals had a paid job (cooking, cleaning, gardening, maintenance and assembling cardboard boxes).

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<sup>28</sup> Employees of the Danish Prison and Probation Administration (DPPA), see paragraph 44 below.

<sup>29</sup> Rooms were generally not locked at either day- or nighttime in order to allow free access to the communal toilets. During daytime, detainees could ask custodial staff that their rooms be locked in their absence.

Further, an activity centre<sup>30</sup> had been made available in a separate building, access to which was granted by two pedagogical assistants who could also propose other activities such as football or basketball.<sup>31</sup>

However, many detained foreign nationals appeared not to be aware of the availability of the above-mentioned activities (or of the procedure to request access to them) and thus spent most of their days idly, lingering around on the units or watching TV. Further, the delegation was informed that previously available language and cooking classes had been discontinued due to the lack of qualified staff.<sup>32</sup>

34. The CPT acknowledges that many detained foreign nationals stayed at Ellebæk Centre for relatively short periods (up to several weeks). However, much longer stays (up to several months) were not uncommon (see paragraph 27 above). In the Committee's view, the longer the period for which foreign nationals are detained, the more developed should be the offer of activities available to them.

**The CPT recommends that the management of Ellebæk Centre step up their efforts to expand the offer of organised activities, in particular for those detained foreign nationals who remain at the establishment for more than a few weeks. Further, steps should be taken to ensure that detained foreign nationals are duly informed, in a language they understand, of the existing offer of activities and the relevant procedures.**

35. Male detainees had access to two large asphalted outdoor exercise yards (equipped with shelters against inclement weather), usually for about 30 minutes twice a day. In addition, they had unrestricted access to small wire net enclosures covered by rigid metal mesh (one enclosure per unit, each measuring some 10 m<sup>2</sup>). The Director told the delegation that she wished to increase detained foreign nationals' access to outdoor areas but stated that her efforts were considerably hampered by the requirement to follow prison-level security regulations (see paragraph 31 above). The Director was of the opinion that, due to this requirement, the only available option was to enlarge the aforementioned enclosures and, if possible, fit them with some outdoor gym equipment. However, even when enlarged and so equipped, the enclosures would remain prison-like and of an oppressive design, inappropriate as outdoor areas for persons detained under aliens' legislation.

Women had access throughout the day to an outdoor enclosure which was of a similar oppressive design as the ones used by male detainees, and which measured approximately 2 by 10 meters.

**The Committee reiterates its recommendation that the Danish authorities take the necessary steps to ensure that all detained foreign nationals have in principle free access to an appropriate outdoor area throughout the day, including on weekends.**

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<sup>30</sup> The activity centre comprised a large bright room equipped with tables, chairs, a sofa, a table tennis table, a table-football and a pool table, as well as an indoor gym.

<sup>31</sup> On weekdays for up to 12 detained foreign nationals and for 2 hours in the morning and two hours in the afternoon.

<sup>32</sup> The language teacher was on long-term sick leave and the cooking teacher had left the establishment.

#### 4. Health care and vulnerability screening

36. Health-care staff complement at Ellebæk Centre consisted of two full-time nurses present in the establishment on weekdays from 8 a.m. to 4 p.m. and a general practitioner who attended one working day per week.<sup>33</sup> When the latter was not present, doctors working at a nearby prison were available on call. In the absence of the nurses, the duty nurse from the Western Prison<sup>34</sup> or an ambulance could be called. It is positive in this context that all custodial staff had received first-aid training in the autumn of 2023 and that a refresher course was planned for the autumn of 2024.

In addition, a psychiatrist could be called to come to Ellebæk Centre when needed and a psychologist visited twice a month offering “crisis management” to the detainees.<sup>35</sup> Further, two psychomotor therapists worked at the establishment for a total of 18 hours per week.

37. Given the low occupancy level at Ellebæk Centre at the time of the visit, the overall presence of health care staff could be considered as generally adequate. However, it appeared that no health-care staff was available at night, on weekends and on public holidays to check on detained foreign nationals placed in “special observation” (i.e. to prevent suicide or self-harm) or in disciplinary solitary confinement cells, and to distribute any prescribed medication (see paragraphs 51, 49 and 42 below).

**The CPT invites the Danish authorities to strive to ensure that health-care staff (e.g. coming from a nearby prison) can be called to Ellebæk Centre also at night, on weekends and during public holidays, whenever a detained foreign national is placed in solitary confinement or in “special observation” (i.e. to prevent suicide or self-harm). Regarding the distribution of medicines by medically untrained custodial officers, reference is made to the comments and recommendation in paragraph 42 below.**

38. Regrettably, despite the Committee’s long-standing recommendation on this subject, newly arrived detained foreign nationals were still not subject to a comprehensive medical examination on admission.

Admittedly, nurses did see all newly-arrived detainees within 72 hours of their admission, conducting interviews aimed at detecting potential and/or acute health problems in line with the specific guidelines in place within the prison system (e.g. regarding suicide prevention and self-harm). The outcomes of the interviews were recorded on dedicated forms and included the nurses’ opinions on the need for further examination or treatment, with a mention on whether the detained foreign nationals concerned had given their consent to any such examination or treatment. The CPT welcomes this positive practice.

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<sup>33</sup> It is recalled that Ellebæk Centre had the official capacity of 121 and was accommodating 52 detained foreign nationals at the time of the visit.

<sup>34</sup> See paragraph 74 below.

<sup>35</sup> An additional “specialist” psychologist could be consulted for more complex mental disorders when needed. Detained foreign nationals diagnosed with a psychosis would be transferred to a psychiatric establishment.

39. However, the physical checks were of a superficial nature, merely consisting of verifying the blood pressure and pulse, and measuring the height and weight. Usually, detained foreign nationals were not requested to take off their clothes and thus no injuries (other than those clearly visible on detainees' heads or hands) could be detected unless the detainees would mention them spontaneously. Appointments for a proper medical examination were usually only made when the nurses considered them necessary for a specific reason.

The delegation was told that, whenever the nurses would (in the course of the aforementioned interviews) gain the impression that detained foreign nationals might have been subjected to physical ill-treatment by the police (or might have been involved in any other violent incident), they were specifically instructed to examine the detained foreign national and record the respective findings. However, there was still no procedure in place for reporting allegations of ill-treatment and related injuries to the relevant investigatory authorities.

40. As already stressed many times in the past, a thorough medical examination on admission of detained foreign nationals is indispensable for the timely provision of somatic and mental health care, as well as for the detection and the recording of possible injuries. It is further crucial for identifying vulnerable persons such as *inter alia* victims of torture or human trafficking and persons suffering from post-traumatic stress disorders (PTSD), and for detecting somatic and specifically transmissible diseases.

Consequently, **the CPT calls upon the Danish authorities to ensure that all detained foreign nationals newly admitted to Ellebæk Centre benefit from a prompt physical examination carried out by a doctor or a nurse reporting to a doctor.**

**Regarding the manner in which the examination should be carried out and any observed injuries recorded, the Committee reiterates its recommendation that the record drawn up after a medical examination of a detained foreign national (whether newly arrived or not) contains:**

- i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);**
- ii) 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), and**
- iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.**

Acknowledging that such cases were very rare at Ellebæk Centre, **the CPT nevertheless wishes to emphasize that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detainee (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), health-care staff should be instructed to systematically bring the record to the attention of the relevant investigatory authorities. Health-care staff should further advise detained foreign nationals 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.**

41. Concerning the identification of possible victims of torture, it is regrettable that a specific and systematic torture screening was still not taking place despite repeated previous recommendations to this effect, including from the CPT and the Parliamentary Ombudsman.

The delegation was told that at least some detained foreign nationals might have undergone such screening prior to their arrival at Ellebæk Centre (e.g. at Sandholm Asylum Centre<sup>36</sup>) but this was clearly not the case for most of the detainees met by the delegation. Moreover, it remained unclear whether the results of any such previous screening would be systematically transmitted to Ellebæk Centre and whether there was any follow-up procedure.

In the light of the above, **the Committee reiterates its recommendation that specific screening aimed at identifying victims of torture and other persons in situation of vulnerability be put in place at Ellebæk Centre (unless the results of any such screening carried out prior to the detainee's admission are made available to health-care staff working at the establishment) and that appropriate treatment and care be provided when necessary.**

**The CPT further recommends that the Danish authorities seek alternatives to immigration detention for certain vulnerable categories of persons, including victims of torture and trafficking and persons suffering from severe mental disorders.<sup>37</sup>**

42. Medical records examined at Ellebæk Centre by the delegation's doctor were well kept and detailed, and their confidentiality respected, as was the confidentiality of health-care consultations. As far as the delegation could ascertain, custodial staff were never present in the examination room. Whenever necessary, interpretation during consultations was provided by professional interpreters, either in person or via a telephone. These were all positive developments as compared with the situation observed during the 2019 visit.

However, as already mentioned in paragraph 37 above, prescribed medication continued to be, as a rule, distributed to detained foreign nationals by medically untrained custodial staff. In this respect, the Committee wishes to stress once again that, in its view, not only the preparation of individual medicine doses but also their distribution by medically untrained individuals may be harmful to the health of the patients concerned as it is prone to errors and, in any event, is generally incompatible with the requirements of medical confidentiality. **The CPT therefore reiterates its recommendation that prescribed medicines, as a rule, only be prepared at Ellebæk Centre and distributed by qualified health-care staff.<sup>38</sup> If, very exceptionally, a daily presence of health-care staff is not possible, steps must be taken to ensure that individual medicine doses are at least prepared exclusively by a health-care professional and their distribution respects as far as possible the precepts of medical confidentiality.**

43. The delegation was also concerned by the fact that foreign nationals detained at Ellebæk Centre were still required to make their requests to see a member of the health-care team by means of filling in special forms, to be handed over in an open manner to a custodial officer, with the obligatory mention of the reason for the request. Some of the forms used also contained a standard pre-printed sentence that "the employee who first receives the request must ensure that it is filled out correctly, and that the inmate has written a proper reason, if possible, for the request". The Director of Ellebæk Centre acknowledged that the existing procedure was incompatible with the principle of medical confidentiality and informed the delegation that detained foreign nationals would shortly be enabled to make requests for medical consultations using sealed envelopes.

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<sup>36</sup> Which is not a place of deprivation of liberty within the meaning of the Convention.

<sup>37</sup> See the CPT's factsheet on Immigration Detention, CPT/Inf (2017) 3, page 8.

<sup>38</sup> See also the recommendation in paragraph 37 above.



**The Committee would welcome the Danish authorities' confirmation that the modified procedure has now been introduced.**

## **5. Custodial staff**

44. As mentioned in paragraph 31 above, Ellebæk Centre was staffed by custodial officers employed by the DPPA. At the time of the visit, the centre employed 33 custodial officers and two heads of unit. Eight officers were usually present during the day and five at night, including on weekends. This shift presence of custodial staff appeared to be adequate for the currently low occupancy level. Nevertheless, the delegation was informed that there had been staff vacancies for several years and that many officers were obliged to work overtime which apparently caused frustration and tensions. Reference is made in this respect to paragraph 90 below.

45. It is regrettable that, despite the recommendation made on this subject by the CPT in the report on the 2019 visit, custodial staff had still not received any specialised training for working with detained foreign nationals.<sup>39</sup>

**The Committee reiterates its recommendation that all staff (in particular custodial officers) working at Ellebæk Centre be given specific training for this task. The training should aim at developing staff's inter-cultural sensitivity and interpersonal communication and psycho-social skills in the context of immigration detention. Staff should further be taught to recognise possible symptoms of stress, vulnerabilities and previous experience of traumatisation displayed by detained persons and to take appropriate action.**

46. Two other issues of concern not addressed since the 2019 visit were that, first, custodial officers could not be identified by detained foreign nationals (as they wore neither name tags nor identification numbers on their uniforms) and, secondly, continued to routinely carry "special means" (handcuffs and pepper spray) inside the accommodation areas. Both of these could be perceived as unnecessary intimidating and prison-like.

**The CPT reiterates its view that the ethos of an immigration detention establishment should not be carceral and therefore recommends that staff working within immigration detention facilities should not routinely carry "special means" (including handcuffs and pepper-spray) whilst inside the accommodation areas.**

**Further, steps should be taken to ensure that custodial officers are always identifiable, preferably by wearing name tags or short identification numbers in a visible manner at all times whilst on duty.**

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<sup>39</sup> Apart from a training session on human trafficking, which had been provided once by an NGO.

## 6. Discipline and security

47. Disciplinary rules applied at Ellebæk Centre were analogous to those followed in prisons.<sup>40</sup> Thus, detained foreign nationals could be placed in disciplinary solitary confinement for up to 28 days.<sup>41</sup> While the sanction had not been applied very frequently in recent past, the delegation noted that there had been several placements for more than 14 days and one of 28 days in the period between the beginning of 2022 and mid-May 2024.<sup>42</sup> As stressed many times in the past, the CPT considers that disciplinary solitary confinement should never be applied for more than 14 days, due to the potentially very damaging effects of this measure to the mental health of the persons concerned. **The CPT reiterates its recommendation that disciplinary solitary confinement should never be imposed for more than 14 days for a given offence (and should preferably be shorter). Whenever an additional period of disciplinary solitary confinement is imposed on a detained foreign national, there should be an interruption of several days between the two placements.**

48. The disciplinary procedure (including as regards the information provided to detained foreign nationals) and the regime in disciplinary solitary confinement were essentially identical to those followed in prisons.

In particular, as was the case in some of the penitentiary establishments visited,<sup>43</sup> detained foreign nationals only received a copy of the disciplinary decision upon their request. **The CPT reiterates its recommendation that detained foreign nationals placed in disciplinary solitary confinement always receive a copy of the disciplinary decision in order to facilitate the exercise of their right to appeal.**

49. According to the information received, detained foreign nationals placed in disciplinary solitary confinement were usually seen by a nurse shortly after their placement in the cell, on the same or the following day. However, this was not the case during weekends when no nurse was present at the centre. The delegation was further told that after the initial visit, a nurse usually came to see the detainee on a weekly basis. This is not sufficient.

**The Committee reiterates its recommendation that, in addition to an initial visit immediately after the person's placement, health-care staff should visit detained foreign nationals in disciplinary solitary confinement regularly thereafter at least once per day (including on weekends and public holidays) to timely provide the required medical care. Reference is further made to the recommendation in paragraph 37 to enhance the availability of nurses on non-working days.**

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<sup>40</sup> As already mentioned in paragraph 31 above, prison regulations were applicable *per analogiam* at Ellebæk Centre. See also paragraphs 92 to 97 below.

<sup>41</sup> Disciplinary solitary confinement cells were recently refurbished and clean; conditions in them do not call for any particular comment.

<sup>42</sup> The longest periods of disciplinary solitary confinement in 2022 had been 21 days, 20 days and 15 days (on two occasions); in 2023, 20 days and 15 days (on four occasions) and in 2024 (until mid-May) 28 days and 17 days.

<sup>43</sup> See paragraph 96 below.

50. Detained foreign nationals were occasionally subjected to strip searches. A decision to subject a detainee to such a search was, as a rule, taken following an individual risk assessment, usually following a violent incident or upon suspicion of smuggling a prohibited item after a visit. That said, foreign nationals detained pursuant to Section 14 of the Return Act<sup>44</sup> were reportedly systematically strip-searched upon arrival. In this context, **the Committee refers to the remarks and recommendation in paragraph 118 below, which apply fully also to detained foreign nationals accommodated at Ellebæk Centre.**<sup>45</sup>

## 7. “Observation cells”

51. Detained foreign nationals who were considered by staff to be suicidal, threatening to self-harm or otherwise in a very agitated mental state could be placed in a specially equipped “observation cell”.<sup>46</sup> According to the relevant registers, such placements occurred rarely and were usually of a short duration, i.e. between one and four hours.<sup>47</sup>

Again, the procedure applied for such placements was largely identical to that followed in penitentiary establishments. In particular, the decision to place a detainee in an observation cell could also at Ellebæk be taken by custodial staff rather than by a medical doctor.

Further, as was the case for detained foreign nationals held in disciplinary solitary confinement, no health-care staff came to see the detainees concerned during weekends and on public holidays.<sup>48</sup>

**The CPT reiterates its recommendation that the placement of a detained foreign national in an “observation cell”, as well as its continuation, only be carried out upon the authorisation of a medical doctor. Reference is again made to the recommendation in paragraph 37 above to enhance the availability of nurses on non-working days.**

52. Despite the recommendation made by the Committee in the report on the 2019 visit, the delegation was told that detained foreign nationals considered to be at risk of suicide and self-harm were placed in the “observation cell” in their underwear and provided with a blanket. **The CPT reiterates its recommendation that such detainees be always provided with rip-proof clothing appropriate to their specific needs.**

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<sup>44</sup> See paragraph 24 above.

<sup>45</sup> See also paragraph 22 above.

<sup>46</sup> Equipped with a bed (with a mattress and a blanket), a table and a chair, as well as a call system.

<sup>47</sup> The longest stay in the last two and a half years had been of 21 hours.

<sup>48</sup> During the placement in an “observation cell”, a nurse usually came to see the detainee concerned on the same or the following working day. In addition, custodial staff reportedly came to the cell to observe and record the detainee’s state several times per hour.

## 8. Contact with the outside world

53. Detained foreign nationals could receive visits in principle every day for at least one and a half hour, including on weekends. Upon their arrival, all detainees received a phone card with an initial credit (equivalent to about 14 EUR) which could be used to make telephone calls from freely accessible pay phones on the unit corridors. That said, given the very high price of calls from these phones, especially for calls abroad, the management was actively seeking ways to lower the costs of phone calls, which is commendable.

However, detainees were not allowed to use their personal mobile phones (even those without cameras), there was still no access to the Internet (not even a restricted one) nor the possibility to make video calls using the Voice over Internet Protocol (VoIP) technology.<sup>49</sup> This was another example of the automatic application of prison regulations, ill-suited in the context of immigration detention (where the overwhelming majority of detained foreign nationals had no one who could visit them as their relatives lived abroad).

**The CPT recommends that steps be taken to offer detained foreign nationals accommodated at Ellebæk Centre better access to the telephone, preferably by allowing them to keep (or at least have regular access to) their own mobile phones. If necessary for reasons of security, detained foreign nationals could be allowed to keep mobile phones provided the phone has no camera. For mobile phones equipped with a camera, the rule could be that detained foreign nationals may only use them in a dedicated room and/or under staff supervision. Further, detainees at Ellebæk Centre should be provided with access to the Internet (restricted if needed) and to video calls on a free-of-charge basis.**

## 9. Legal safeguards

54. In the report on the 2019 visit, the CPT criticised the fact that not all detained foreign nationals then interviewed by the Committee's delegation at Ellebæk Centre had reportedly received a written copy of their detention order. In their response to that report, the Danish authorities stated that "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."<sup>50</sup>

However, many of the detained foreign nationals interviewed at Ellebæk Centre during the 2024 visit told the delegation that they had not received such a document. More generally, some of the detainees appeared to be unaware of the legal procedures affecting them.

**In this context, the CPT reiterates its recommendation that steps be taken to ensure that all detained foreign nationals accommodated at Ellebæk Centre be provided with a copy of the detention order, including information on the grounds for detention and the modalities to lodge an appeal. Detained foreign nationals who do not understand Danish should further receive in writing at least a summary of the detention order in a language and manner they understand. Further, the Committee would like to be provided with a detailed and comprehensive account of all written information given to detained foreign nationals (including by the police, the Danish Return Agency and the Danish Refugee Council).**

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<sup>49</sup> The equipment for video calls was available in a dedicated room, but only used on some days for online court hearings.

<sup>50</sup> See document CPT/Inf (2020) 26, page 74.

55. The Committee welcomes the fact that a full-time social worker had been recruited at Ellebæk Centre, tasked among other things with providing detained foreign nationals with relevant information upon admission and during their detention, in particular on the establishment's house rules and detainees' rights. The social worker usually met newly-arrived detained foreign nationals within 24 hours of their admission for "information sessions" in smaller groups or individually;<sup>51</sup> further, the social worker came to the accommodation units on a regular basis and was available for individual conversations with the detainees.

As regards written information, the delegation noted as a positive development that detained foreign nationals were now, as a rule, provided with a comprehensive information brochure (available in 15 languages) immediately upon their arrival. In addition, the house rules as well as the admission search procedure (the latter in pictograms) were posted on the wall in the establishment's admission area and a short version of the daily schedule (also in pictograms) was posted on the information boards in the unit corridors.

56. As regards information on avenues of complaint in particular, several detained foreign nationals told the delegation that they did not know how to file a complaint. The brochure mentioned in paragraph ... above did indicate that complaints could be filed to the DPPA and specified the relevant postal address; it also mentioned the possibility to complain subsequently to the Parliamentary Ombudsman.

However, no information was provided in the brochure (nor anywhere else e.g. on information boards in the units) on the practical complaint procedure, i.e. how exactly both internal and external complaints could be filed and who dealt with these complaints within which deadlines. In particular, no mention was made in the brochure (nor in any other place) of the fact that detained foreign nationals could request to receive paper and envelopes, and file confidential complaints using complaint boxes installed inside each accommodation unit.

Further, the manner in which the relevant chapter of the information brochure was drafted (at least in the English language version) could lead the reader to the incorrect conclusion that complaints could only be filed against disciplinary sanctions.<sup>52</sup>

**The CPT recommends that the information brochure at Ellebæk Centre be amended so as to eliminate the aforementioned lacunas.**

57. A number of interviewed detained foreign nationals claimed that complaints they had lodged verbally had been immediately dismissed by duty custodial staff, without informing the Director. Regrettably, the delegation was not in a position to verify these claims given the absence of a dedicated complaints register at Ellebæk Centre. **The Committee recommends that such a register be set up. Further, all staff (including custodial officers) should be instructed to duly report to the Director (or another authorised member of the management) all verbal complaints received from detained foreign nationals which cannot be resolved on the spot.**

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<sup>51</sup> On weekends, the task of providing such information rested with the custodial staff, although the social worker would meet newly-arrived detained foreign nationals on the first following working day.

<sup>52</sup> See paragraphs 47 and 48 above. In particular, the chapter of the information brochure entitled "Possibilities to complain" began with the following sentence: "As a general rule, you are entitled to a justification if you receive a disciplinary penalty".

58. The CPT acknowledges as a positive development since the 2019 visit that the availability of professional interpretation services (both in person and via a telephone) had considerably improved at Ellebæk Centre. The establishment's Director expressly encouraged staff to make more use of these services and sufficient funds had been made available for that purpose. In addition, electronic interpretation tools were regularly used.

## C. Prison establishments

### 1. Preliminary remarks

59. The delegation visited the Western Prison and Police Square Prison in Copenhagen, as well as Nyborg and Enner Mark Prisons. All have been visited by the CPT in the past and the general descriptions of these establishments made in the reports on previous visits remain generally valid.<sup>53</sup>

60. At the outset of the visit, senior officials from the Ministry of Justice informed the delegation that the Danish prison system had for the past several years operated above its intended capacity, the rate of overcrowding being the highest in respect of remand prisoners (103%) and sentenced inmates accommodated in closed prisons (102%).<sup>54</sup> At the time of the visit, the overall prison population stood at 4.191 whilst all the penitentiary establishments together had 4.141 places (calculated according to the norm of 6 m<sup>2</sup> of living space per prisoner). Indeed, the four prisons visited were operating at their full capacity or were even slightly overcrowded,<sup>55</sup> which had obliged the management to convert some of the single cells into double ones.<sup>56</sup> Granted, all prisoners enjoyed at least 4 m<sup>2</sup> of living space but the fact remained that the prison population had been increasing steadily.<sup>57</sup>

According to the delegation's interlocutors, there were several factors contributing to this situation. One of the factors was the insufficient capacity of the court system (the duration of court proceedings in criminal cases had increased from an average of 4,4 months in 2018 to 8,4 months in 2022),<sup>58</sup> resulting in a very high percentage of remand prisoners (while the total number of remand prisoners had decreased from 4.387 in 2019 to 3.354 in 2023, about 41% of the total prison population in Denmark were remand prisoners in 2021) and their long stays in remand prisons or sections, often for months or even years (the average duration of detention on remand was 8 months in 2022, the latest available data at the time of the visit).

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<sup>53</sup> The Western Prison, the biggest and main penitentiary establishment in the greater Copenhagen area, was visited many times in the past, most recently during the 2014 visit (see paragraph 43 of document CPT/Inf (2014) 25). Police Square Prison (previously called Police Headquarters Prison) has likewise been visited by the CPT on several previous occasions, most recently in 2019 (see paragraphs 44 and 45 of document CPT/Inf (2019) 35). Nyborg and Enner Mark Prisons were last visited in 2008, see respectively paragraphs 49 – 52 and 45 – 48 of document CPT/Inf (2008) 26.

<sup>54</sup> In open prisons the occupancy was lower, approximately 90%.

<sup>55</sup> At the time of the 2024 visit, the Western Prison (capacity 504) was accommodating 539 inmates (including 14 women and 168 male sentenced prisoners), as compared with the average of 537 in the course of the year 2020 (but with the average population having peaked at 541 in 2023). The Police Square Prison had 25 places and 23 inmates (all but seven on remand), Nyborg Prison had 348 places and 349 prisoners (including 98 on remand and 150 foreign inmates subject to deportation in addition to imprisonment), as compared with the average of 316 in the course of the year 2020. As for Enner Mark Prison, it had the capacity of 236 and was accommodating 260 inmates (including 59 remand prisoners), compared with the average of 246 in the year 2020.

<sup>56</sup> It is to be stressed that this situation, combined with staff shortages, had a negative impact on the conditions of detention, regime, health-care and contact with the outside world in the prisons visited. See paragraphs 68, 73, 76 and 120 below.

<sup>57</sup> The prison population had been 3.879 at the time of the 2019 visit. It is worth adding that Denmark's incarceration rate had increased from 66.8 inmates per 100,000 inhabitants in 2021 to 71 inmates per 100,000 inhabitants in 2023, see [SPACE - Council of Europe Annual Penal Statistics - Prisons and Community Sanctions and Measures \(coe.int\)](https://www.coe.int/en/web/pace-observatory/pace-observatory-annual-penal-statistics-2023).

<sup>58</sup> See Danish Courts' press release dated 29 March 2023 (<https://domstol.dk/aktuelt/2023/3/fortsat-lange-sagsbehandlingstider-i-2022/>).

Other factors included the changing characteristics of prison population with more inmates belonging to organized crime<sup>59</sup> and serving long sentences, and the limited availability of alternative measures (especially electronic monitoring<sup>60</sup>) and parole.<sup>61</sup> In particular, the delegation was told that very few alternatives to remand imprisonment were being used. Although the Danish legislation provided for the possibility of remand in custody being replaced with bail or a travel ban, these had reportedly virtually ceased to be used since the late 1980s.

61. Measures taken by the Danish authorities to respond to the aforementioned increase in the prison population consisted essentially of building new prisons, including a new establishment (with 200 places) under construction in Zealand and a 400-cell prison soon to be opened in Jutland (in Sønder Omme). Further, the Parliament had recently decided to increase budget allocations for the judicial system, with the hope to help shorten the case processing time. The only already existing new measure of a (substantive) legislative nature mentioned to the delegation was a recently adopted amendment facilitating access of prisoners serving the last 8 months of their sentence to half-way homes; however, the delegation's interlocutors acknowledged that this new provision had not had any real impact on the prison population so far. The delegation was also informed about ongoing discussions on a possible introduction of a legal provision according to which persons would not (in principle) be remanded in custody if the offence they were accused of could result in 6 months of imprisonment or less. It is noteworthy though that this new draft provision was referred to as "controversial" and it was reportedly unclear whether (and when) it would ever be adopted.

The CPT is firmly of the view that building new prisons cannot by itself provide a lasting solution to the overcrowding problem. This can only be achieved by combining the modernization of prison estate with an increased resort to alternatives to imprisonment. A coherent strategy is required, covering both admission to and release from prison, to ensure that imprisonment really is the measure of last resort. Emphasis should be placed on the full range of non-custodial measures capable of providing judicial supervision during the period preceding the imposition of a sentence, as well as on measures to accelerate a prisoner's release, including through supervisory means tailored, *inter alia*, to the prisoner's personality and the nature of the sentence.

Further, the Committee wishes to stress that a prison cannot function effectively if it is operating at 100% of its capacity or even slightly above capacity. There must always be some margin for transferring incompatible prisoners from one wing to another or for receiving additional prisoners or for taking back prisoners returning from leaves. The Council of Europe's White Paper on Prison Overcrowding states that "if a given prison is filled at more than 90% of its capacity this is an indicator of imminent prison overcrowding. This is a high-risk situation, and the authorities should feel concerned and should take measures to avoid further congestion."

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<sup>59</sup> The increase in organized (including gang-related) violent crime, involving numerous persons accused of drug and gun offences, was also reportedly one of the reasons why it took longer for the police to investigate cases and for the prosecution service and courts to prosecute and try the accused.

<sup>60</sup> Which, under the law in force at the time of the visit, could only be used as alternative to a prison sentence (generally only in respect of juveniles and sick prisoners, as well as prisoners approaching the end of their sentence) but not as an alternative to remand imprisonment. It is also noteworthy that electronic monitoring was not available to prisoners sentenced for drug offences.

<sup>61</sup> Access to which had reportedly become more restricted pursuant to recent Ministry of Justice guidelines (for example, it was virtually inaccessible to prisoners who were known to belong to a criminal gang). According to representatives of several NGOs met by the delegation at the outset of the visit, whilst approximately 20% of applications for parole had been rejected in 2019, the percentage of rejections had doubled by 2023. At Nyborg Prison, staff told the delegation that several years previously some 60% of prisoners would be released after having served 2/3 of their sentence but that currently the percentage was much lower (some 20%).



The CPT calls upon the Danish authorities to step up their efforts to ensure that all prisons operate within their official capacities. Further, efforts to manage the prison population should be increased, taking due account of the relevant Recommendations of the Committee of Ministers of the Council of Europe, including 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, Recommendation (2014)4 on electronic monitoring and Recommendation CM/Rec(2017)3 on the European Rules on community sanctions and measures. A comprehensive strategy and action plan must be drawn up to achieve this goal, including precise deadlines and budget allocations.

The CPT would like to be informed of the progress in devising such a strategy and action plan. The Committee would also like to receive more detailed information on the above-mentioned Parliament decision to increase budget allocations for the judicial system.

62. During the visit the delegation learned of the ratification by the Kosovo Parliament (on 23 May 2024) of the bilateral treaty foreseeing the operation of a prison in Gjilan (Kosovo) by the Danish Prison and Probation Administration (DPPA),<sup>62</sup> and the potential transfer there of up to 300 foreign national prisoners sentenced by Danish courts to deportation in addition to a term of imprisonment. **The Committee requests to be provided, in due course, with the text of the Co-operation Agreement implementing the aforementioned treaty.**<sup>63</sup>

In the CPT's view, the treaty could potentially raise a number of serious issues of concern. Among others, Article 24, paragraph 1, of the bilateral treaty stipulates that criminal offences committed by Kosovo prison staff are to be prosecuted by Kosovo authorities,<sup>64</sup> which would amount to a partial relinquishing of jurisdiction for matters that should in principle fall within the responsibility of the Danish authorities. Furthermore, the treaty would appear to be in contradiction with two key principles underpinning the Council of Europe Convention on the Transfer of Sentenced Persons (ratified by Denmark) that is that any such transfers are to be carried out towards the State of the person's nationality and must be voluntary (except where the person to is subject to expulsion or deportation once they have served their sentence, or have fled or moved to the territory of their State of nationality, where consent to transfer to the State of nationality is not required).<sup>65</sup> **The Committee would welcome the Danish authorities' observations on this subject. Further, the CPT would like to receive a detailed schedule for the implementation of the said agreement.**

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<sup>62</sup> The English-language version of the Treaty is available under this link: <https://www.justitsministeriet.dk/wp-content/uploads/2022/04/Final-treaty-Denmark-Kosovo.pdf>.

<sup>63</sup> According to Article 4, paragraph 4, of the Treaty, the Co-operation Agreement, to be signed between the DPPA and the Kosovo Correctional Service, shall concern "the functioning of the Prison, the staff, the facilities, the transport of Prisoners and other tasks that may be carried out by both Parties."

<sup>64</sup> Regarding the Danish staff (mainly the senior management), the above-mentioned Article states that "In exceptional cases and with respect to the jurisdiction of the Sending State [i.e. Denmark] and the principle of *ne bis in idem*, criminal offences committed against or by Staff of the Sending State may be prosecuted in the Sending State after consultation between the relevant authorities of the Sending State and the Receiving State [i.e. Kosovo]."

<sup>65</sup> Convention on the Transfer of Sentenced Persons, ETS 112 (see Article 3); Additional Protocol to the Convention on the Transfer of Sentenced Persons, ETS 167 (see Articles 2 and 3), both ratified by Denmark. See also the Protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons, ETS 222, not ratified by Denmark to date.

## 2. Ill-treatment

63. The delegation received no allegations of deliberate ill-treatment by custodial staff at any of the prisons visited. In all the penitentiary establishments, the delegation found that staff behaved generally in a professional and respectful manner, and many inmates spoke positively about prison officers.

That said, a few prisoners, especially at the Western Prison and Nyborg Prison, complained about custodial staff having occasionally applied physical force in an excessive manner or used inappropriate language, essentially in the context of staff responding to incidents and breaches of prison discipline.<sup>66</sup>

Although the delegation could ascertain that these complaints had all been duly followed and investigated by the respective prison Directors, **the CPT recommends that it be recalled in suitable intervals to all prison officers – in particular at the Western Prison and Nyborg Prison – that no more force than is strictly necessary should be used to control prisoners. Further, custodial staff should be reminded that they should always refer to prisoners in a polite and respectful manner.**

In this context, the delegation noted with interest the practice developed at Enner Mark Prison, consisting of monthly reviews of all instances of use of force by staff. The reviews were carried out by the establishment's health and safety department, with a view to analysing how such incidents could be avoided or at least better handled in the future. **The Committee invites the Danish authorities to extend this positive practice to all other prisons.**<sup>67</sup>

64. As for inter-prisoner violence, it did exist but did not seem to be a major problem in the prisons visited, which was both remarkable and commendable given the presence of many members of warring gangs and other prisoners who could not be allowed to associate given the high risk of conflict and abuse. Despite the less-than-optimal staffing levels (see paragraph 87 below), prison officers generally succeeded in keeping all inmates safe and intervened quickly and effectively whenever any instances of inter-prisoner violence occurred.

However, the delegation noted that the recording of incidents of inter-prisoner violence left something to be desired. In particular, there were no dedicated incident registers, information on instances of inter-prisoner violence being recorded in inmates' individual (electronic) files and, sometimes, in disciplinary records or records of use of "observation" and "security" cells (if inter-prisoner violence resulted in the application of disciplinary sanctions and/or placement in such cells). Statistical information on incidents and on their details could be retrieved from the informatic system but it was a cumbersome process.

In order to facilitate the oversight of inter-prisoner violence, **the CPT recommends that dedicated incident registers be set up in every prison in Denmark. It would also be advisable to compile more detailed statistics of incidents, e.g. specifying the type of the violence involved (verbal or physical) and its severity. Such statistical information could be first of all collected in each prison and then on the regional and national level.**

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<sup>66</sup> Many if not most of these complaints referred to situations which involved inmates' placement in an "observation" or a "security" cell, and the application of mechanical restraint (fixation). See further remarks and recommendations in paragraphs 106 and 111 below.

<sup>67</sup> See also paragraph 115 below.

### 3. Conditions of detention

#### a. material conditions

65. As already mentioned in paragraph 60 above, in all prisons visited inmates had at least 4 m<sup>2</sup> of living space per person.<sup>68</sup> Single cell accommodation remained the rule and, in those cells, there usually was well above 6 m<sup>2</sup> of living space (often 8 or 9 m<sup>2</sup>). Whilst the situation was not problematic in this sense at the time of the visit, the steady rise of prison population was obviously a concern for the management, especially at the Western Prison (see paragraph 60 above). Further, as already mentioned in the aforementioned paragraph, it was combined with other factors such as staff shortages (see paragraph 87 below) which then had a bearing on other aspects of prison life such as access to activities, health care and possibilities to maintain contact with the outside world.<sup>69</sup>

In all the prisons visited, the delegation found the cells to be generally suitably furnished (bed with full bedding, desk, chair, chest, shelves, washbasin, fridge, call bell), well-lit and ventilated, clean and in a good state of repair. Exceptions regarding the windows, the absence of in-cell toilets and the wear-and-tear of certain cells are mentioned in paragraphs 68 and 67 below.

There seemed to be no problems with daily access to a shower (also for prisoners accommodated in cells without in-cell annexes) and, in general, with the quality and quantity of the food. Many prisoners (including all inmates on general regime<sup>70</sup>) could cook their own meals; by contrast, those in high-security units had ready-made meals (delivered frozen to the prison and warmed up on the spot) served in their cells and some of them complained that the food was monotonous and not very tasty. **The Committee invites the Danish authorities to look into this matter.** The delegation was impressed by the initiative of opening supermarket outlets at Nyborg and Enner Mark Prisons, where inmates could make their shopping almost in the same manner as people in the outside community; **this is a positive practice that could usefully be expanded to other prisons.**

66. The best, actually excellent in all aspects, material conditions were observed at Enner Mark Prison, where the cells measured 12 m<sup>2</sup> each and were all equipped with a fully partitioned sanitary annexe (comprising a shower). Well-furnished communal spaces (with kitchens, dining and living areas) were provided for each small unit of 6 cells. The architectural design of the prison, with large windows without bars giving onto large open green spaces and a very “discreet” perimeter wall, reduced the carceral feel (despite the presence of all the modern security features).

In the Committee’s view, in terms of infrastructure and material conditions **Enner Mark Prison should serve as a reference for the whole prison system.**

67. In the other prisons, conditions were also generally adequate despite the occasional wear-and-tear (at Nyborg and Western Prisons). That said, there was a rolling refurbishment programme and it seemed likely that any issues of this kind would be solved within a reasonable time.

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<sup>68</sup> This was namely the case in the few single cells converted into double ones.

<sup>69</sup> See paragraphs 73, 76 and 120 below.

<sup>70</sup> Category 3 (e.g. approximately 2/3 of all prisoners at Nyborg and Enner Mark Prisons).

In those two establishments, the delegation saw that “jalousies” (shutters) were being gradually installed on cell windows, reportedly in order to prevent prisoners of different categories from communicating with each other. Whilst access to natural light and fresh air seemed adequate, these devices severely restricted the view from inside the cells, which was particularly problematic for prisoners who were segregated or in high-security units and who often spent 23 hours per day inside their cells.<sup>71</sup> **The CPT recommends that the Danish authorities reflect upon ways to achieve the aforementioned legitimate security objective without depriving inmates of the outside view from their cells.**

68. By far the most problematic issue observed yet again by the delegation was the absence of in-cell toilets in most of the cells at Nyborg, Police Square and Western Prisons, especially combined with custodial staff shortages.<sup>72</sup> The delegation heard numerous complaints by prisoners at Nyborg and Western Prisons<sup>73</sup> regarding long delays (up to 45 minutes) in access to (and return from) communal toilet facilities, especially at night (between 7 p.m. and 7 a.m.). A number of prisoners in the two establishments stated that they had had to urinate into the washbasin and some said they had occasionally been forced to defecate into a plastic bag.<sup>74</sup> Some inmates told the delegation that it was an unwritten rule that custodial staff were not to be “bothered” by requests to escort prisoners to the toilet at night, save in absolute emergencies (e.g. if a prisoner was ill).

The lack of in-cell toilets in many (especially older) Danish prisons and the delayed access to communal toilets is something the CPT has criticized many times in the past.<sup>75</sup> It is indeed very disappointing for the Committee to note that Denmark, by all means a wealthy country, has apparently been unable to solve this decades-old problem until now.<sup>76</sup> **The CPT calls upon the Danish authorities to take resolute steps to ensure that all prisoners have unimpeded access to toilet facilities without undue delay at all times (including at night).<sup>77</sup> Preferably, all cells (including in the existing older prisons) should be equipped with in-cell toilets. The Danish authorities should put in place a detailed and budgeted action plan, with clear and realistic deadlines, to achieve this goal. The Committee would like to be presented with information on this action plan and its implementation in the Danish authorities’ response to this report.**

69. At the Police Headquarters Prison the delegation learned that the establishment’s lift had been broken for several months, which *inter alia* rendered the distribution of food more difficult and could also pose problems for inmates with reduced mobility and in case of a medical emergency. The Director assured the delegation that the lift would be repaired in the near future. **The CPT would like to receive confirmation that this has been done.**

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<sup>71</sup> See paragraph 71 below.

<sup>72</sup> See paragraph 87 below.

<sup>73</sup> Access to a toilet did not seem to be a major issue at Police Square Prison, likely due to its small size and a better availability of staff.

<sup>74</sup> This was also confirmed by staff and, indeed, the delegation saw a few such plastic bags lying on the ground after having been thrown out of cell windows by inmates. Staff told the delegation that removing those bags was the task of prisoners employed as cleaners.

<sup>75</sup> See e.g. paragraph 45 of the report on the 2019 visit (CPT/Inf (2019) 35).

<sup>76</sup> The first time the CPT has stressed the importance of securing ready access to a toilet for all prisoners was in the report on the very first Committee’s visit to Denmark, in December 1990. See in particular paragraphs 43 and 94 of document CPT/Inf (91) 12.

<sup>77</sup> See also Rule 19.4 of the European Prison Rules.

b. regime

70. The delegation gained a very positive impression of the regime at Enner Mark Prison where the great majority of prisoners (86%) could work and were allowed to associate with fellow prisoners and engage in other activities, even (under certain conditions) when segregated.<sup>78</sup>

The prison had a range of modern, high-quality facilities for prisoners' work, vocational training, education and leisure-time activities. Work and vocational training was provided in a series of workshops (metal-work, welding, car mechanics, fitting and assembly work, packaging work, etc.) and in the establishment's general services (laundry, kitchen, cleaning, gardening, etc.). There were class and therapy rooms (including for alcohol and drug therapy), numerous premises to practice arts, watch movies or attend religious services, several indoor and outdoor gyms and many well-designed outdoor exercise yards. The prison's extensive grounds also comprised a football pitch (accessible to Category 3 prisoners).

71. The situation was less favourable in the other prisons visited, with approximately a third of the inmates being involved in work or education at the Western Prison (mostly in general services and some in-cell work) and about half at Nyborg Prison (either in the large and modern printing, graphic and assembly workshops or in general services).

Both aforementioned prisons accommodated some segregated<sup>79</sup> and high security prisoners<sup>80</sup> (with limited association opportunities), as well as numerous remand prisoners (see paragraph 60 above), and for those categories the regime was fairly impoverished with between 21 and 23 hours per day spent inside the cell watching television, listening to the radio, reading or playing games.<sup>81</sup>

The scarcity of organized activities was of particular concern given that segregated, high-security and remand prisoners tended to stay on such impoverished regime for long periods, that is for months and sometimes even years.<sup>82</sup> Furthermore, due to lack of spare capacity in establishments for sentenced prisoners, many prisoners continued to be accommodated in remand units even after their sentence had become final, being subjected to the same regime as remand prisoners.

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<sup>78</sup> Including 43 gang members, five inmates on voluntary segregation and seven prisoners convicted of sex offences segregated for their own safety. That said, it is important to add that not all segregated prisoners were allowed to work.

<sup>79</sup> There were some 120 segregated prisoners at the Western Prison (including approximately 90 gang members and 30 inmates on voluntary segregation, most of them convicted of sex offences) and some 30 at Nyborg Prison. Segregated prisoners could associate with each other inside their unit (some the whole day, some – especially gang members – for several hours per day) but had less work and education opportunities. See also paragraphs 98 to 102 below.

<sup>80</sup> High-security prisoners (22 at Western Prison, likewise 22 at Nyborg Prison and 12 at Enner Mark Prison) were entitled to one hour of outdoor exercise, one hour of gym and between two and three hours of association time every day, together with one other prisoner (selected by the prison management but obviously with the approval of both inmates concerned). This usually took the form of the two prisoners being allowed to meet inside one of the cells, sometimes also in the exercise yard. They were rarely able to work (if at all, then it would be work inside the cell). See also paragraphs 100 and 101 below.

<sup>81</sup> As for Police Square Prison, five out of the 23 inmates had a job (those inmates being free to move around the detention area whole day) whilst the others could associate three hours per day.

<sup>82</sup> See also paragraph 60 above and paragraph 101 below.

The CPT reiterates its long-standing recommendation that the Danish authorities take steps to develop adequate programmes of activities for remand prisoners and sentenced prisoners obliged to remain in remand sections.

The aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (i.e. eight hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. The longer the period for which remand prisoners are detained, the more developed should be the regime offered to them. Steps should be taken to ensure that prisoners, once sentenced, are transferred promptly from a remand prison (or unit) to an establishment (or unit) for sentenced prisoners.

The Committee also reiterates its recommendation that measures be taken to offer segregated and high-security prisoners structured programmes of constructive activities, preferably outside the cells, based on individual projects intended to provide prisoners with appropriate mental and physical stimulation. The implementation of these individual projects should be overseen by a multi-disciplinary team and their aim should be to assist the prisoners to transit out of the segregation/high-security unit into ordinary accommodation as well as, in due course, reintegrating the community at large.<sup>83</sup>

72. Two systemic problems observed in all the prisons visited merit a particular mention. First, inmates were not able to pursue distance education above the 9<sup>th</sup> grade (reportedly because of online security concerns) which negatively impacted their social reintegration prospects. Second, no organised activities (other than work and some language courses) were available to foreign national prisoners sentenced to be deported after serving their prison sentence. **The CPT recommends that steps be taken to address these issues, including as required through amending the relevant legislation.**

73. As already mentioned in paragraph 65 above, all the establishments but especially Nyborg and Western Prisons were confronted with shortages of custodial staff, which had an unavoidably negative impact on the possibilities to offer association and organized activities to prisoners, in particular those who had to be segregated from the others and those in high-security units (given the requirement of at least two, sometimes three or four, prison officers being present each time the prisoner was taken out of the cell).

The absence of in-cell toilets, referred to in paragraph 68 above meant that the modest staff resources had to be additionally diverted to the tasks of escorting inmates to and from the communal toilets, which left little time for prison staff to enable prisoners to engage in organized activities. In this context, **reference is made to the remarks and recommendations in paragraphs 68 above and 90 below.**

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<sup>83</sup> See also the remarks and recommendation in paragraph 102 below.

#### 4. Health-care services

74. In all the prisons visited, inmates had access to health care, both primary and secondary. Prisons were staffed with nurses,<sup>84</sup> general practitioners<sup>85</sup> and dentists,<sup>86</sup> and arrangements were in place for regular visits by various specialists, as needed.<sup>87</sup> However, the presence of health-care staff was not sufficient and, with the notable positive exception of the Western Prison, the delegation gained the impression that health-care staff did not always act proactively enough, tending to wait for prisoners to request to see them. Given that some prisoners (including those most vulnerable, due e.g. to mental conditions or the language barrier) would not necessarily take the step to request a consultation, **the CPT invites the Danish authorities to encourage health-care staff (nurses and doctors) at Nyborg and Enner Mark Prison to develop a more proactive attitude and to visit prisoners (especially those identified as vulnerable) on a regular and frequent basis.**

Further, **the Committee recommends that efforts be made to increase the effective presence of primary health-care professionals in the prisons visited. In particular, there should be the equivalent of two full-time GPs at the Western Prison and at least the equivalent of a full-time GP at Nyborg Prison. There should also be the equivalent of two additional full-time nurses at the latter establishment.**

75. The CPT is concerned by the fact that, apart from the Western Prison,<sup>88</sup> none of the penitentiary establishments benefited from a 24/7 health-care staff coverage, with no health-care staff being present after 3 – 4 p.m. and on weekends. This was clearly problematic given the size and characteristics of the prisoner populations in the larger establishments (i.e. Nyborg and Enner Mark Prison). As already mentioned in paragraph ... above [preliminary remarks], these prisons were accommodating many remand prisoners for whom these establishments represented a point of entry into the prison system.

The CPT wishes again to stress that establishments accommodating remand prisoners should have health-care staff coverage seven days a week and rapid availability of health-care staff at night time. As a minimum, a person competent to provide first aid should always be present in such establishments, including at night and on weekends; preferably, this person should be a qualified nurse. **The Committee reiterates its recommendation that steps be taken to ensure such a permanent health-care coverage in all penitentiary establishments concerned.**

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<sup>84</sup> The Western Prison (population 539) employed 18 full-time nurses, with six to nine being present each day. A nurse was present each working day at the Police Square Prison. Nyborg Prison (population 349) had five full-time nurses and Enner Mark Prison (population 260) had six nurses.

<sup>85</sup> A GP visited Nyborg Prison twice a week (and was on call the other working days) but if needed, any of the other eight general practitioners employed at the regional level could also come to the prison; further, procedure was ongoing for the recruitment of a second on-site GP. Police Square Prison was visited by a GP once a week. As for the Western Prison and Enner Mark Prison, a GP was present every working day.

<sup>86</sup> A dentist held surgeries twice per week at the Western Prison and once per week at Nyborg Prison and Enner Mark Prison. Police Square Prison had no dentist; inmates would be taken for consultation to the Western Prison in case of need.

<sup>87</sup> E.g. infectious diseases specialists, dermatologists, radiologists, orthopaedists, etc. Teleconsultations (using a video link) were also available.

<sup>88</sup> Where there always was a nurse on duty.

76. Another major issue of concern was the impact of custodial staff shortages (see paragraph 87 below) on the provision of health care. In particular, scheduled appointments with doctors (both inside and outside the prison) had to sometimes be cancelled because there was not enough custodial staff on duty to provide escorts; this could have a negative impact on prisoners' health and even life. At the Western Prison, nurses told the delegation that they were no longer able to go to the detention blocks every evening and check on inmates identified as requiring particular attention by health-care professionals, because there were not enough custodial officers on duty especially as regards inmates whose security category required the presence of two or more custodial staff every time their cell door was opened. The low custodial staff presence, in particular on evening shifts, also resulted in certain prescribed medication (including sleep medicines) being administered too early (e.g. 7 p.m.) which reduced its efficacy.

In this context, reference is made to the remarks and recommendation in paragraph 90 below. In addition, **the CPT recommends that the Danish authorities reflect on whether (pending the recruitment of additional custodial staff) it would be possible to reorganize the shifts so as to at least partly alleviate the negative impact of custodial staff shortages on prisoners' access to health care.**

77. The delegation further observed that prisoners' access to mental health care was inadequate. Although positive efforts had been made in recent years to recruit prison psychologists<sup>89</sup> and to secure the presence of psychiatrists, at least a few hours weekly,<sup>90</sup> the fact remained that this was insufficient to provide for the needs of numerous mentally ill prisoners.<sup>91</sup>

Health care staff working in the prisons visited seemed generally well trained and appeared to be doing their best to help their patients. The delegation witnessed, for example, an incident in the course of which one of the nurses at the Western Prison succeeded in a most professional manner to calm down an agitated mentally ill prisoner, without any recourse being made to means of restraint.

However, where the system clearly failed was with respect to inmates whose psychiatric condition was so severe that they would require hospitalisation.<sup>92</sup> The delegation was told in all the prisons except for Police Square Prison (which did not receive inmates with known severe mental health issues) that – although it was possible to transfer prisoners to “civil” psychiatric establishments in case of emergency – the latter establishments tended to hospitalize prisoners not long enough for their mental health condition to truly improve, with the result being that such prisoners would often be transferred to the hospital and back to prison multiple times.

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<sup>89</sup> For example, two clinical psychologists had been hired to work at the Western Prison; they also went to Police Square Prison whenever needed. At Nyborg Prison there was a visiting psychologist/psychotherapist and another psychologist who however mostly worked with staff. As for Enner Mark Prison, the delegation was told that there used to be a visiting psychologist (once a week) but it was no more the case; the establishment had an agreement with an outside psychologist who could be called if needed.

<sup>90</sup> A psychiatrist came to the Western Prison once or twice per week and to Nyborg Prison once a week. Enner Mark Prison had a contract with a psychiatrist who visited whenever called in.

<sup>91</sup> For example, approximately half of all the inmates at Nyborg Prison were regularly taking psychiatric medication.

<sup>92</sup> There were several such prisoners in the establishments visited, e.g. 21 at the Western Prison (accommodated in larger cells, measuring approximately 12 m<sup>2</sup>, in the so-called Western Hospital which was in fact not a hospital but a separate detention wing located closer to the offices of health-care staff).



The aforementioned situation resulted in a heavy workload and a serious psychological pressure on (understaffed) custodial personnel, several of whom told the delegation that they would benefit from more specialised training in dealing with mentally disturbed prisoners. Further, it had an obvious impact on the extent of use of “observation cells, “security cells” and mechanical restraint (fixation).<sup>93</sup>

In one case the delegation was told about at Enner Mark Prison, a very agitated and aggressive prisoner, diagnosed with a psychosis, had reportedly been sent to the psychiatric facility whilst restrained and was still restrained when the hospital sent him back as he had not calmed down sufficiently. Reportedly, such situations were due to the reluctance of “civil” psychiatric hospitals to admit prisoners considered to be potentially more “dangerous” for the staff and other patients there. The delegation was told that, for any longer-term treatment of a mentally ill prisoner in a psychiatric establishment, a court decision on placement in a forensic establishment (*surrogat fængsling*) was required, normally for a specific period of time, e.g. 6 months.<sup>94</sup> However, the waiting time for such a forensic placement could reportedly be long due to the lack of spare capacity in specialised establishments.

**The Committee recommends that serious efforts be made by the Danish authorities to improve the access to mental health care in prisons. This should include recruiting more mental health professionals and facilitating transfer to appropriate mental health care facilities, for as long as needed on medical grounds, of prisoners whose condition so requires. If necessary, suitable procedures need to be discussed and agreed with the Ministry of Interior and Health. The CPT also recommends that custodial staff be provided with more specialised training on dealing with mentally disturbed prisoners.**

78. Regarding prisoners’ access to health care, one particularly problematic issue was the legal discrimination of foreign prisoners subjected to deportation (in addition to imprisonment). These prisoners were as a rule only entitled to primary and emergency care. Any non-urgent medical procedures, including specialist care and operations (even in case of serious illnesses, cancer for example) would in principle be provided on a paid basis only. Admittedly, there was a degree of discretion both for the prisons and the hospitals, and in practice health-care staff would often manage to offer free-of-charge treatment to those prisoners, but the fact remains that this legal discrimination resulted in a two-class health-care system for prisoners, which is potentially harmful to health and thus totally unacceptable.

**The CPT recommends that the aforementioned legal discrimination be abolished and foreign prisoners be given the same free-of-charge access to both primary and secondary health care as their fellow Danish inmates.**

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<sup>93</sup> See paragraphs 104, 105, 108 and 109 below.

<sup>94</sup> Prison doctors would provide the courts with their assessment of the state of health of the inmate, although if the prisoner was already sentenced, the procedure required first a placement in an observation ward in the “civil” psychiatric establishment, followed by a forensic psychiatric assessment. As far as the delegation understood, it was easier to initiate the transfer when the inmate was still on remand (the prison doctor could address the competent prosecutor directly).

79. Despite the recommendations reiterated by the Committee since its very first visit to Denmark in 1990,<sup>95</sup> there was still no systematic and prompt medical screening of all newly-arrived prisoners, including checking for the presence of injuries and transmissible diseases, in the prisons visited.

Newly-arrived prisoners were met by a nurse, usually within 24 to 72 hours, and were given a medical questionnaire (the same model as that used in hospitals in the outside community). They were also asked if they had any health-related complaints and whether they wanted to see a doctor.

However, this was on an entirely voluntary basis and the procedure did not involve a clinical examination. Newly-arrived prisoners who did not express any health complaints and did not request a medical consultation would not be seen by a GP.

80. The CPT must stress, once again, that the initial medical screening of all persons admitted to a prison should be obligatory, not an option offered to them.<sup>96</sup> Such systematic screening is essential, in the interests of the prisoners and of the staff, in particular to identify special medical needs (including mental health needs), prevent the spread of transmissible diseases, reduce the risk of suicides and ensure the timely recording of any injuries. Save for exceptional circumstances, the initial medical screening should be carried out on the day of admission, especially as regards the prisoners entering the prison system.

**The CPT calls upon the Danish authorities to take the necessary measures 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 to enable them to properly assess the health-care needs of each newly-admitted prisoner, including mental health needs. The procedure should also include symptomatic TB screening and systematic voluntary testing for HIV and hepatitis B and C.**

**Regarding the recording of injuries, see paragraph 16 above. The Committee also reiterates its long-standing recommendation that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is immediately and systematically brought to the attention of the relevant investigatory authorities. Health-care staff should further advise prisoners 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.**

81. As regards medical confidentiality, it appeared that, as a rule, health-care examinations took place out of the hearing and out of the sight of custodial staff. However, similar to what had been observed on previous visits, in order to see a member of the health-care service, prisoners had to hand over a written application to a prison officer who passed it on to a nurse. The possibility of placing the application in a sealed envelope existed but was rarely used; most of the prisoners appeared to be unaware of this option.

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<sup>95</sup> See paragraph 48 of document CPT/Inf (91) 12.

<sup>96</sup> See also Rule 42.1 of the European Prison Rules.

**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 should become a standard procedure; for this purpose, the forms should always be handed over to prisoners together with envelopes.**

82. In all the establishments visited, the distribution of prescription medicines continued to be carried out, as a rule, by prison officers (from dosage boxes prepared by nursing staff). As a result, medication and its dosage were clearly visible to the custodial staff.

As stated by the CPT many times in the past, such a practice compromises medical confidentiality requirements and does not contribute to the proper establishment of a doctor-patient relationship. For both confidentiality and safety reasons, the preparation of prescription medicines should always be entrusted to qualified staff (pharmacist, nurse, etc.) and medication should be distributed by health-care staff. **The Committee reiterates its long-standing recommendation that steps be taken to ensure that this is the case in all the prisons in Denmark.**<sup>97</sup>

83. The health-care facilities and equipment varied from basic at Police Square Prison (which did not even have a proper examination couch), to generally adequate at the Western and Nyborg Prisons, and excellent at Enner Mark Prison. That said, there was no electrocardiography (ECG) machine at Police Square and Nyborg Prisons, which meant that prisoners requiring an ECG had to be transferred to the Western Prison (in the case of Police Square Prison) or to a local general hospital (in Nyborg). **The CPT recommends that steps be taken to address these deficiencies.**

84. In all the prisons visited, but especially at the Western Prison and Nyborg and Enner Mark Prisons, some inmates and members of health-care staff told the delegation – and the delegation found other indications – that the use of intoxicating substances by inmates was a problem, in particular as regards the use of opioids (also newer synthetic opioids, such as fentanyl). However, the managements appeared not to be fully aware of the magnitude of this phenomenon, expressing the view that the main substance used by prisoners was cannabis. Due *inter alia* to the absence of a systematic screening upon admission, the main burden rested upon custodial staff who had to be alert to, and bring to the attention of health-care staff, signs of possible drug dependence. In this context, **reference is made to the recommendation in paragraph 80 above.**

85. Opioid agonist therapy (OAT) was available for prisoners who were dependent on opioids.<sup>98</sup> There was a drug free unit at the Western Prison and a “treatment unit” (for 30 inmates) at Enner Mark Prison, with therapeutic activities provided by outside specialists. That said, as with respect to other non-emergency medical treatments, foreign inmates sentenced to deportation in addition to imprisonment were legally banned from access to such therapies, which means that nothing was done to help them with their addiction problem. The CPT finds this very questionable and regrettable; **the recommendation in paragraph 78 above should be interpreted as applying to this aspect of health care as well.**

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<sup>97</sup> See, however, the exception referred to in paragraph 86 below.

<sup>98</sup> OAT could be continued or initiated in prison. Patients were prescribed methadone (in the majority of cases), buprenorphine or suboxone.

86. Another issue of serious concern is that easily administered life-saving medication (in case of opioids overdose) such as naloxone in the form of nasal spray, was prohibited in prisons. The delegation was told that the Patients' Security Agency which oversees health care in prisons, and the National Healthcare Authority opposed its use on the grounds that opioids used by prisoners were not prescribed by doctors, and it would be incorrect to make medication such as antidotes available as a response to the illegal use of drugs.

The Committee finds this reasoning surprising to say the least, and somewhat in denial of the reality. Whether the substances were legally prescribed or not, prisoners did use opioids and risked death from overdose. Providing staff (not only health-care staff but also custodial officers) with naloxone, to be used only in case of emergency, could save prisoners' lives.

**The CPT recommends that steps be taken to make naloxone nasal spray available to both health-care and custodial staff (and to train the latter in how to administer naloxone in case of emergency).**

## 5. Other issues

### a. prison staff

87. As already stressed earlier in this report (see paragraphs 73 and 76), custodial staff shortages remained one of the key challenges facing the Danish prison system at the time of the 2024 periodic visit. According to the information provided by the DPPA, while the average prison population had increased from 3.974 at the beginning of 2019 to 4.191 at the beginning of 2024,<sup>99</sup> the actual number of custodial staff had continued declining (from 2.113 in 2019 to 1.874 in 2023), with closed prisons being the most affected by this negative trend.<sup>100</sup> Despite measures taken since 2022 by the DPPA, in co-operation with staff unions, to recruit and retain prison officers, for example by rewarding satisfactory performance with increased salaries, a considerable number of custodial staff had left their jobs in search of better career opportunities.<sup>101</sup>

88. Custodial staff shortage was especially conspicuous at the Western Prison and Nyborg Prison, as well as to a lesser extent at Police Square Prison.<sup>102</sup> Staffing levels were particularly low at night and on weekends, with often as few as six custodial officers present in establishments accommodating hundreds of inmates.<sup>103</sup> In the older prisons, such as the Western Prison and some areas of Nyborg Prison, without in-cell sanitary annexes, custodial staff had to escort persons to the toilets and showers in addition to performing their regular duties, which led to considerable delays in some cases, especially at night.<sup>104</sup>

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<sup>99</sup> See also paragraph 60 above.

<sup>100</sup> Source: DPPA's Management Information System (MIS), data as of 14 May 2024.

<sup>101</sup> For example, 11 out of 13 newly recruited custodial staff left the Western Prison in 2023, which lacked 20% of its custodial staff complement at the time of the visit.

<sup>102</sup> By contrast, staff shortage was not perceived as a major issue at Enner Mark Prison.

<sup>103</sup> There were only 18 custodial staff on duty at night and on weekends for 504 prisoners at the Western Prison; seven custodial staff (also involved in escorting prisoners to the toilet and back to their cells, distributing medication and monitoring "observation" and "security" cells) at Nyborg Prison (accommodating some 350 prisoners) and six for 260 prisoners at Enner Mark Prison.

<sup>104</sup> Sometimes it reportedly amounted to a total lack of access to a toilet at night. See paragraph 68 above.

More generally, as described by several prison officers and openly acknowledged by Directors of the establishments concerned, the low (and diminishing) staff complement had a negative impact on prisoners' access to activities and visits.<sup>105</sup>

89. As stressed by the CPT many times in the past, low custodial staff complements reduce the possibilities of direct contact between staff and prisoners, impeding the development of positive relations and jeopardizing the effective maintenance of order and security as well as social reintegration efforts. Significant amounts of overtime can then prove necessary to maintain a basic level of security and regime delivery in the establishment. This can easily result in high levels of stress in staff and their premature burnout, potentially leading to an increase of sick leaves,<sup>106</sup> which is likely to exacerbate the tension inherent in any prison environment, leading to an insecure environment for both staff and prisoners. The number of prison officers employed must therefore be sufficient to guarantee safety and order in custody as well as the physical and mental integrity of inmates.<sup>107</sup>

90. Whilst acknowledging steps being taken by the Danish authorities to recruit and retain staff, **the CPT recommends that more efforts be made to increase custodial staff complements and times of presence in the prisons visited (especially at the Western Prison and Nyborg Prison), in particular at night and on weekends. These efforts should include providing competitive working conditions and supporting staff's wellbeing through initiatives to improve their mental, emotional, and physical health and to build their resilience and capacity to deal with challenging situations.**

91. In this connection, several custodial officers with whom the delegation spoke expressed the wish to receive additional on-the-job refresher training<sup>108</sup> on how to effectively manage prisoners with mental health issues,<sup>109</sup> which according to them would help them reduce the extent of use of force and means of restraint.<sup>110</sup>

The Committee considers that staff who are working with challenging and vulnerable prisoners, including violent and mentally ill persons, should be able to communicate with the inmates in a supportive and non-threatening manner, in line with dynamic security approaches. Miscommunication or poor communication can easily result in a breakdown in trust and tensions, with severe consequences for the staff and prisoners in question, and eventually for other inmates.

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<sup>105</sup> The latter especially at the Western Prison, where there had sometimes been not enough staff present to ensure all the required escorts to visiting premises.

<sup>106</sup> As was particularly the case at Nyborg Prison, according to 2023/2024 data provided by the DPPA.

<sup>107</sup> See e.g. the [CPT's 11th General Report](#) and paragraph 26 of the United Nations Prison Incident Management Handbook, [www.un.org/ruleoflaw/blog/document/the-prison-incident-management-handbook](http://www.un.org/ruleoflaw/blog/document/the-prison-incident-management-handbook).

<sup>108</sup> Unlike the initial training for newly-recruited custodial staff, which was reportedly satisfactory, there apparently was a problem with the availability of ongoing training for older officers recruited several years ago.

<sup>109</sup> Of whom there were many in the prisons visited, see paragraph 77 above.

<sup>110</sup> See paragraph 108 below.

In the light of the above, **the CPT recommends that the Danish authorities improve ongoing training for custodial staff in communication, conflict prevention and management of mentally ill prisoners, including de-escalation techniques. The initiative, observed at Enner Mark Prison, of involving a psychiatric nurse in training and mentoring custodial staff on the special needs of mentally ill prisoners merits being positively highlighted in this context.**

b. discipline

92. Pursuant to amendments to the Criminal Code, the Criminal Enforcement Act and the Administration of Justice Act dated 28 February 2023,<sup>111</sup> which entered into force on 4 September 2023, the maximum duration of solitary confinement as a disciplinary measure (*strafcelle*) in respect of adult prisoners had been reduced to 14 days (from the previous 28 days). The CPT welcomes these amendments which are in line with the Committee's long-standing recommendation.

However, the law continues to permit the imposition of longer sanctions (up to 28 days) in exceptional circumstances, such as in the case of serious repeated offences and where it is deemed necessary to deal with particularly challenging, violent, or disruptive inmates. Further, the delegation observed in the prisons visited that inmates were sometimes placed in disciplinary solitary confinement for more than 14 days, on occasion up to 24 days and even longer for special categories of prisoners (in particular, inmates who were known to be gang members and who were classified as "negatively strong")<sup>112</sup> and as a result of serving consecutively multiple sanctions without interruption.

In the light of the above, **the CPT strongly reiterates its recommendation that disciplinary solitary confinement should never be imposed for more than 14 days for a given offence (and should preferably be shorter). Whenever an additional period of disciplinary solitary confinement is imposed on a prisoner, there should be an interruption of several days between the two placements in the *strafcelle*.**

93. The aforementioned legal amendments continue to permit the placement of juvenile prisoners in a *strafcelle*, for up to 7 days as a rule but exceptionally for up to 28 days in cases related to violence against staff.<sup>113</sup> That said, guidelines on the implementation of those provisions stipulate that juveniles aged 15 to 17 should in principle never be placed in disciplinary solitary confinement for more than 3 days. Only in special cases, typically for repeated offences of a serious nature, the duration may be longer (up to 7 days). Alternative sanctions, such as restricting association with other inmates, should be considered for this category of prisoners.<sup>114</sup>

Whilst appreciating the Danish authorities' evident intention to reduce the duration of disciplinary solitary confinement for juvenile prisoners, the CPT must stress once again that any form of solitary confinement of juveniles is likely to have an even more detrimental effect on their physical and/or mental well-being than in the case of adult prisoners. Consequently, **the Committee reiterates its recommendation that solitary confinement as a disciplinary punishment for juveniles be abolished in Denmark.**<sup>115</sup>

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<sup>111</sup> See Sections 67 to 72 of the Criminal Enforcement Act and Executive Order no. 1120 of 26 June 2023 on the new disciplinary punishment system.

<sup>112</sup> See paragraph 98 below.

<sup>113</sup> See Section 70 (1) and (2) of the Criminal Enforcement Act.

<sup>114</sup> See also Executive Order on Disciplinary Cells, Interrogation Cells and the Examination of Disciplinary Cases in State and Local Prisons, as latest amended on 17 August 2023.

<sup>115</sup> See also Rule 45 (2) of the UN Standard Minimum Rules on the Treatment of Prisoners (Nelson Mandela Rules) and Rule 67 of the UN Rules on Protection of Juveniles Deprived of Liberty (Havana

94. In a more positive vein, the CPT is pleased to note that the overall number of disciplinary sanctions of solitary confinement has decreased, from 7,212 in 2019 to 4,855 in 2023, and the delegation was told by senior officials of the DPPA that the policy was to continue reducing recourse to this sanction. For example, first-time smuggling of a mobile telephone into the prison was no longer to be sanctioned with solitary confinement, such a sanction only being imposed if a prisoner attempted the same for a second time within the period of 12 months. Further, there was a practice of increased replacement of disciplinary solitary confinement with pecuniary sanctions (fines).<sup>116</sup>

95. The amended provisions also introduced several improvements to the regime applied to inmates placed in a *strafcelle*, such as allowing limited association with a selected other inmate, requiring prison staff to visit the prisoner on a frequent and regular basis, and granting inmates in disciplinary solitary confinement access to a telephone unless there were specific reasons to restrict it. Further, prisoners placed in a *strafcelle* could now have a TV set in the cell, wear their own clothes and could, under certain conditions, be permitted to work. The Committee welcomes these positive developments.

96. An examination of disciplinary proceedings in the prisons visited revealed that the safeguards set out in the Criminal Enforcement Act, including prisoners' right to be heard and to appeal disciplinary decisions,<sup>117</sup> were complied with. Prisoners also had the right to be assisted by a fellow inmate from the same unit who was not involved in the incident and were allowed to request to be assisted by a lawyer, although this was rare in practice. If required, access to professional interpretation could be provided, in person or by telephone.

However, as far as the delegation could ascertain, only at Enner Mark Prison were inmates systematically given a written copy of the disciplinary decision; in other prisons this would be done upon the prisoner's request. **The CPT recommends that inmates in all prisons in Denmark be systematically provided with a copy of the disciplinary decision, the receipt of which they should be asked to acknowledge in writing.**

Further, the delegation gained the impression that some prisoners did not properly understand the new disciplinary system (with different sanctions that could be applied for the same offence, depending on the circumstances of the case and of the person involved) and were not fully aware of the applicable sanctions and the increased flexibility that the new system offered to staff. In this context, the delegation noted that the management of the Western Prison had decided to produce a leaflet explaining the new rules in a simple and clear manner, to be handed out to prisoners. At the time of the visit, the Danish version of the leaflet was ready and translations into several foreign languages were being prepared. **This is a positive initiative which merits to be followed in other prisons in Denmark.**

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Rules).

<sup>116</sup> For example, the recourse to fines had increased by 32% when comparing the periods from January-April 2023 to January-April 2024 at the Western Prison. At Nyborg Prison the increase was of about 15% and at Enner Mark Prison of about 40% during the same period.

<sup>117</sup> Prisoners could appeal disciplinary decisions internally to the prison's Director within 2 months. If the sanction amounted to more than 7 days of solitary confinement, they could also lodge an appeal to the court within 4 weeks, in which case there was a right to compensation for the time spent in the *strafcelle* (half a day of sentence for each day spent in the disciplinary cell) if the appeal was successful.

Also on a positive note, the delegation observed that disciplinary registers were well kept in the establishments visited, both in paper and electronic form. Case files and related protocols were adequately documented, and investigations took place timely.

97. As regards the role of health-care staff, the delegation was informed that the health-care service was systematically informed of every placement and health-care staff (usually nurses) were required to visit prisoners placed in *strafcelle* on a weekly basis. Doctors, psychiatrists or psychologists could also visit them as they deemed necessary on a case-by-case basis. It would however appear that access to psychiatrists was more limited in the establishments visited.<sup>118</sup>

In the CPT's view, health-care staff should visit prisoners placed in solitary confinement immediately upon placement and regularly thereafter, at least once a day, to timely provide the required medical care. **The Committee therefore calls upon the Danish authorities to reconsider Denmark's reservation to Rule 43.2 of the European Prison Rules and introduce the necessary legislative changes to bring Chapter 11 of the Criminal Enforcement Act in compliance with the aforementioned standard.**

c. segregation on security grounds

98. As already mentioned earlier in this report (see, in particular, paragraphs 60, 67 and 71), three out of the four prisons visited (the Western Prison, Nyborg Prison and Enner Mark Prison) accommodated a number of inmates segregated on security grounds, essentially prisoners known to be gang members and those with a record of violent and/or otherwise challenging behaviour (referred to as "negatively strong" prisoners).

Placement in a high security unit<sup>119</sup> (including a dedicated unit for gang members) was decided by the establishment's management (in consultation with the regional prison administration), either upon admission or subsequently, and was based on operational information provided by the police and on individual risk assessment performed inside the prison. The placement decision was reviewed after one month and then every three months.

99. In terms of procedural safeguards, the delegation observed at Enner Mark Prison that inmates were systematically heard prior to the placement and given a copy of the placement decision with stated grounds (albeit some details could be omitted for security reasons) and with information about available avenues of complaint.<sup>120</sup> Further, they were able to attend the internal review hearings and could present their views on their situation.

By contrast, at the Western Prison and Nyborg Prison, prisoners placed in high-security units were, as a rule, informed orally of the placement decision and were only given a written copy upon request. **The CPT recommends that the procedure followed in this respect at the Western Prison and Nyborg Prison be aligned with that applied at Enner Mark Prison.**

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<sup>118</sup> See paragraph 77 above.

<sup>119</sup> There were four prisons in Denmark with such high-security units: in addition to the three above-mentioned establishments, Storstrøm Prison had one.

<sup>120</sup> It was possible to appeal the decision by the Director of the prison to place a prisoner in a high-security unit to the Director of the DPPA. The appeal had no suspensive effect.



100. Concerning the regime in high-security units, as already mentioned (see paragraph 71) prisoners placed in them were generally allowed to associate with other prisoners of the same category, at the very least with another inmate in their cells during 2 to 3 hours per day, but often for several hours per day and in larger groups (within the confines of their unit). Moreover, following individualized risk and needs assessment, some of the prisoners were permitted to work (either in their cells, in small workshops inside the unit or in some cases also in main workshops, under staff supervision) and study. Further, special programmes existed to assist gang members in leaving their gangs and reintegrating the society. **The Committee would like to receive more detailed information about these special programmes.**

101. That said, the situation varied between different prisons visited. In particular, the regime was more impoverished at the Western Prison, due to the characteristics of the establishment (the main remand prison in Copenhagen, accommodating many gang members, see paragraphs 60 and 71 above) and the serious custodial staff shortage (see paragraph 88 above). Indeed, for certain inmates (those who had been subjected to such an impoverished regime for many months if not years), the conditions could on occasion be considered as amounting to inhuman and degrading treatment.

102. The delegation observed (and this was corroborated by statements by the management, staff and inmates, as well as the relevant medical documentation) that high-security units accommodated a significant number of prisoners with diagnosed mental disorders whose condition was likely to worsen due to segregation. Those prisoners were monitored on a weekly basis by health-care staff (including mental health professionals) who could, if deemed necessary, recommend their release from the high-security unit and/or their transfer to a mental health facility.

That said, in the light of the delegation's findings regarding the quality of mental health care in the prisons visited (see paragraph 77 above), **the Committee recommends that steps be taken to strengthen the psycho-social support provided to prisoners segregated on security grounds. More generally, such prisoners should be followed individually by multidisciplinary teams involving the custodial, social and health-care staff, the objective being to assist the prisoners concerned to gradually (re)integrate the mainstream prison population. Reference is also made to the recommendation in paragraph 77 above.**

d. "observation cells"

103. Pursuant to Section 64 (1) of the Criminal Enforcement Act, placement of prisoners in an "observation cell"<sup>121</sup> may take place to prevent acts of vandalism, to maintain public order and security or for "special observation" (i.e. to prevent suicide and self-harm).<sup>122</sup>

According to the available documentation examined by the delegation at the Western Prison, inmates had mainly been placed in "observation cells" to maintain order and security, followed by "special observation" needs and to prevent acts of vandalism. At Nyborg and Enner Mark Prisons, most placements had been due to "special observation" needs, followed by the maintenance of order and security, and preventing acts of vandalism.

<sup>121</sup> "Observation cells" seen by the delegation in the prisons visited were equipped with a bed (with a mattress and a blanket), a table and chairs/benches fixed to the floor, as well as a call system. A window (in the wall or in the door) permitted surveillance by prison staff from outside the cell.

<sup>122</sup> On this, see paragraph 106 below.

104. As regards the nationwide frequency of prisoners' placements in "observation cells", there had been an overall decrease, from 1.227 placements in 2019 to 994 in 2023.<sup>123</sup> This is particularly noteworthy given that there had been an overall increase of the prison population in the same period (see paragraph 60 above).

The delegation noted that the recourse to placements in "observation cells" had indeed decreased at two of the establishments visited: from 388 placements in 2022 to 361 in 2023 at the Western Prison, and from 27 placements from January-May 2023 to 12 from January-May 2024 at Nyborg Prison. The number of placements in "observation cells" had, however, increased at Enner Mark Prison, from 154 in 2022 to 193 in 2023.<sup>124</sup> **The Committee would welcome the Danish authorities' observations on the possible reasons behind this increase.**

105. In terms of duration of placement in "observation cells", according to the records consulted by the CPT's delegation, the longest placement in an "observation cell" in 2024 (up until mid-May) had been approximately 48 hours at the Western Prison,<sup>125</sup> some 20 hours at Nyborg Prison and approximately 97 hours at Enner Mark Prison.<sup>126</sup>

In this context, the Committee wishes to reiterate its view that placement of agitated or violent prisoners in an "observation cell" should only last until the person calms down, whereupon they should be placed in an ordinary cell and, if appropriate managed through disciplinary processes or the provisions regulating removal from association under Section 63 of the Criminal Enforcement Act. **The CPT calls upon the Danish authorities to limit the duration of prisoners' placements in "observation cells" to the time strictly necessary for the inmate concerned to calm down.**

106. As had been the case during the 2019 visit, the delegation saw several prisoners with mental health-related conditions who had been placed in "observation cells" for "special observation" reasons (to prevent suicide and self-harming).

Unlike on the aforementioned visit, the delegation noted that nurses were as a rule involved in timely assessing inmates' condition upon their placement in "observation cells", and either a nurse or the duty doctor regularly (at least daily) monitored their condition during the placement. However, despite the Committee's previous recommendation, placements in "observation cells" for the purpose of preventing suicide or self-harm (as well as their continuation) were still decided by custodial staff and were not immediately brought to the attention of health-care staff, which is unacceptable.

**The CPT recommends that the relevant provisions be amended so that placement in "observation" cells for "special observation" (i.e. to prevent suicide and self-harming by a prisoner with a mental-health related condition) is only decided as a last resort and immediately brought to the attention of health-care staff who should visit the prisoner without delay; the same should apply to any prolongation of the measure. Any prisoner whose condition requires "special observation" in excess of 24 hours should be transferred to an appropriate mental health facility (see the remarks and recommendation in paragraph 77 above).**

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<sup>123</sup> Source: DPPA Management Information System, information as of 27 May 2024.

<sup>124</sup> Police Square Prison did not possess "observation cells" (prisoners requiring placement in such a cell would be transferred to the Western Prison).

<sup>125</sup> There had also been 3 placements lasting more than 30 hours, 6 lasting more than 20 hours, and 17 lasting more than 10 hours.

<sup>126</sup> There had also been a placement lasting some 44 hours, one of over 30 hours and 5 lasting longer than 20 hours.

e. “security cells” and mechanical restraint

107. The placement of prisoners in “security cells”<sup>127</sup> and the application of mechanical restraints (fixation belts) to immobilize them is regulated in Section 66 of the Criminal Enforcement Act and in the Executive Order on the placement in security cells and use of means of restraint.<sup>128</sup>

According to the aforementioned provisions, the purpose of fixation is to avoid imminent violence, bring prisoners under control and prevent suicides and self-harming. There must be proportionality between the aim of fixation and the loss of dignity and discomfort that it may cause, a doctor must be promptly requested to visit the inmate (which can only happen at the doctor’s discretion)<sup>129</sup> and fixation must be carried out with as much tact and consideration as the circumstances allow. Whenever an inmate is placed in a “security cell” and fixated, a custodial officer (placed in an adjacent room) must visually monitor the prisoner through a glass window in the wall and record his/her observations on the inmate’s behavior and condition at least every 15 minutes.

The delegation’s findings from the three prisons possessing “security cells” (that is the Western Prison and Nyborg and Enner Mark Prisons)<sup>130</sup> suggest that the above-mentioned rules were duly applied in practice.

At the Western Prison the delegation was informed that a nurse had to regularly check the fixated inmate’s condition and that debriefings had to take place with the prisoner during and after fixation. Further, whenever the period of fixation exceeded 24 hours, a doctor was required to visit the prisoner once per day. The delegation was not able to ascertain whether analogous procedures were applied at Nyborg and Enner Mark Prison. **The CPT would like to receive clarification of this point from the Danish authorities.**

108. As regards the frequency of placements in “security cells” and application of mechanical restraint, according to the data provided by the DPPA, the number of placements had decreased at Nyborg Prison, from 106 in 2019 to 78 in 2023. Not all placements in the “security cell” were accompanied by fixation, and the number of instances where the belts had been used was also on the decline (from 59 instances in 2019 to 31 in 2023).

Likewise, at the Western Prison, the recourse to placement in “security cells” had decreased in recent years, from 41 placements in 2022 (14 times to prevent suicide and 27 to bring under control violent prisoners), out of which 27 with mechanical fixation, to 18 placements in 2023 (8 times to prevent suicide and 10 to deal with violent resistance), out of which 10 with mechanical fixation.

By contrast, the number of placements had increased at Enner Mark Prison, from 42 in 2022 (all accompanied by fixation) to 70 in 2023 (out of which 69 with fixation). However, when comparing the periods January-May in 2022, 2023, and 2024, the number had increased from 14 to 33 and then again decreased to 25.

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<sup>127</sup> That is, cells equipped only with a bed bolted to the floor, a mattress and five-point fixation belts attached to the bed.

<sup>128</sup> No. 1111 of 17 August 2016.

<sup>129</sup> In addition, a doctor must be called if requested by the inmate and if there is a suspicion of any illness and/or injury.

<sup>130</sup> If a prisoner accommodated at Police Square Prison required placement in a “security cell”, he would be transferred to the Western Prison.

109. The CPT remains concerned regarding the excessive duration of fixation in prisons. According to the data provided by the DPPA, during the period between 1 January and 31 May 2024, the average duration of fixation had ranged from 15 to 20 hours, depending on the establishment. The longest instance (in respect of an inmate who had been fixated on two subsequent occasions in May 2024) was over 140 hours.

At Enner Mark Prison, the delegation interviewed a young prisoner (19 years old) who had been fixated for 19 hours, and an older male inmate who had been subjected to fixation for 24 hours. The delegation also found, in the relevant documentation, cases where fixation had repeatedly been applied vis-à-vis the same inmate, for example to prevent suicide,<sup>131</sup> or due to violent behaviour.<sup>132</sup>

110. The Committee also continues having serious misgivings about the recourse to fixation in respect of prisoners with mental health issues, which constituted the majority of cases at the establishments visited.

For example, at Nyborg Prison the delegation interviewed a prisoner diagnosed with a mental health condition who had attempted to commit suicide and harm himself several times, and who had been placed in a “security cell” and fixated for 12 hours given his agitated state. Reportedly, according to the doctor who assessed the inmate after fixation, the inmate was mostly frustrated and angry and kept requesting to see a psychiatrist while being fixated. The same inmate was fixated again after having been transferred to Enner Mark Prison, this time for approximately 19 hours. This could be considered as amounting to inhuman and degrading treatment.

111. In the light of the aforementioned findings of the 2024 visit, the CPT must stress once again that agitated prisoners who pose a serious danger to themselves or to others may be temporarily isolated in a calming down cell until they restore behavioural control, only as a last resort when all other reasonable options (such as talking to the prisoners in question) have failed to satisfactorily contain these risks. As regards prisoners displaying severe mental health issues, they should be transferred to a psychiatric facility where they can receive the necessary care.

**The Committee reiterates the recommendation that the Danish authorities abolish the practice of fixation of prisoners for security reasons and develop alternative approaches; the CPT would like to be provided with a detailed plan to achieve this objective. Pending this, the Danish authorities must ensure that the following minimum safeguards are strictly applied in all prisons resorting to fixation:**

- **fixation may only be used as a measure of last resort, when all other reasonable options have failed satisfactorily to deescalate violence; previous (unsuccessful) measures should be clearly indicated either in the decision to apply fixation or in dedicated register;**
- **any fixation may only be of a very short duration (minutes rather than hours);**
- **fixation may only be resorted to in a medical setting, namely as expressly ordered by a doctor or immediately brought to the doctor’s attention. The doctor should proactively visit fixated prisoners immediately upon fixation to document and treat any injuries, review the prisoners’ health condition as well as assess the necessity to continue applying the measure;**

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<sup>131</sup> 14 hours followed by 13 hours two days later.

<sup>132</sup> 51 minutes and 19 hours five days later.

- **fixated inmates should be under continuous, personal and direct supervision by prison staff physically present in the “security cell”; observing patients through a window is not sufficient.**

Further, the CPT recommends that steps be taken to ensure that debriefing sessions involving the prisoners concerned and custodial and health-care staff are organized following each measure of fixation, for oversight and learning purposes. In this context, the establishment of a “Violence and Threats Committee” at Enner Mark Prison,<sup>133</sup> assessing individual cases with a view to identify tools and techniques to deescalate violence and reduce the use of mechanical restraints, draw lessons learned and compile statistics, is to be considered as a good practice worthy of applying in all other prisons equipped with “security cells”. The Committee also recommends that appropriate initial and refresher training be provided to staff regarding the use of fixation and de-escalation techniques.

Lastly, the CPT would like to receive statistics on the application of the measure of fixation in prisons countrywide in 2023 and 2024, broken down by prison establishment, gender, duration, reason for applying the measure and whether the inmates in question had a mental illness and/or had recently self-harmed or attempted to commit suicide.

112. Several prisoners interviewed at the Western Prison and Nyborg Prison told the delegation that they had been placed in a “security cell” and fixated whilst naked. If true, such a practice would be unacceptable. In this context, **reference is made to the comments and recommendation in paragraph 52 above, which apply *mutatis mutandis* also in the prison context.**<sup>134</sup>

- f. use of force including “special means”

113. As far as the CPT’s delegation could ascertain in the prisons visited, recourse to the use of physical force (holding) and “special means” (including handcuffs, truncheons, pepper spray and shields) typically occurred in the context of staff trying to bring agitated prisoners under control, placing them in “observation” and “security” cells and/or applying mechanical restraint inside the “security cells”.

114. As regards the frequency of use of force,<sup>135</sup> the total number of cases had decreased at the Western Prison from 2022 to 2023, from 427 to 372 instances. At Nyborg Prison, the total number of instances had increased slightly from 2022 to 2023, from 108 to 112 incidents. Lastly, at Enner Mark Prison the number of instances had clearly increased from 2022 to 2023, from 127 to 181.<sup>136</sup>

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<sup>133</sup> Involving representatives from the prison management, the staff union, health care and security services in cooperation with the psychiatric union and the DPPA.

<sup>134</sup> See also paragraph 66 of the report on the 2014 visit, document CPT/Inf (2014) 25.

<sup>135</sup> A generic term in the Danish legislation including instances of use of physical force and various “special means”.

<sup>136</sup> As far as the delegation could ascertain there had been no cases at the Police Square Prison which only received prisoners with a good record of behaviour and no serious mental health conditions.

**The Committee would welcome the Danish authorities' observations on the possible reasons behind this significant increase at Enner Mark Prison (and the decrease at the Western Prison). The CPT would also like to be provided with the corresponding data in respect of the year 2024.**

115. As regards, more specifically, the use of pepper spray, the relevant Danish provisions<sup>137</sup> stipulate that pepper spray should only be used in confined areas if the deployment of other means does not seem sufficient to secure the desired outcome. Further, prisoners should receive a warning that pepper spray will be used if they fail to comply with the instructions of staff and should receive adequate assistance after the use of pepper spray.

In the prisons visited, the delegation noted that there had been a general tendency to reduce the recourse to pepper spray inside prisoner accommodation areas (including cells); the only exception to this positive trend was – again – Enner Mark Prison, where the number of instances of use of pepper spray had increased between 2022 and 2023. **The Committee would like to receive observations by the Danish authorities on the possible reasons behind this increase. Reference is also made here to the comment in paragraph 111 above and the request for information in paragraph 114 above.**

g. strip searches

116. In accordance with Sections 60 (1), (4) and (5) of the Criminal Enforcement Act, prisoners must be fully undressed during searches carried out for reasons of order and security. Such strip searches must otherwise be carried out as gently as the circumstances allow and only if the discomfort that they may cause is proportionate to their justification. Further, the imposition of strip searches is conditional on the prison administration carrying out a prior individual risk assessment of the prisoner concerned.

117. Despite the above-mentioned requirement, the delegation gained the impression that strip searches were imposed in the prisons visited in an excessive manner, *quasi* systematically, in particular whenever inmates returned from the outside (court hearings, leaves, etc.). Furthermore, strip searches were often carried out when prisoners were brought back to their unit after having been taken elsewhere inside the establishment (e.g. workshops, classrooms, visiting area, etc.). In addition, the strip search procedure did not follow the two-step (first top half, then bottom half) rule recommended by the CPT. In some instances, naked prisoners also had to go through an X-ray metal detector, squat and cough.

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<sup>137</sup> See Section 62 of the Criminal Enforcement Act and the Executive Order by the Minister of Justice No.1026 of 15 July 2023.

118. As stated many times in the past, the Committee is of the view that strip searches are very invasive measures that must therefore be proportionate and duly justified. They should only be carried out when there are reasonable grounds to suspect that prisoners may have hidden on themselves items that may be used to harm themselves or others or in the case where there may be evidence of a crime (e.g. smuggling in prohibited items) and a more in-depth search is necessary.

In the light of the above, **the CPT recommends that the Danish authorities ensure that the decision to impose a strip search on a prisoner is indeed always based on an individual risk assessment. As concerns the procedure, the Committee reiterates its recommendation that prisoners who are subjected to a strip search be allowed to remove clothing above the waist and redress before removing further clothing.**

Further, **when prisoners are instructed to pass through a metal detector, they should in principle be allowed to keep their clothes (at least the underwear). As for instructing inmates to squat and cough, this should only be done if the X-ray machine detects the presence of a suspicious object inside the prisoner's body cavities.**

h. contact with the outside world

119. As had been the case in the past, sentenced prisoners were offered reasonably good opportunities to maintain contact with the outside world. In particular, they could receive visits from their relatives at least once per week, lasting a minimum an hour (but often longer in practice). Additional visits (up to two per week) could be granted upon request, subject to the availability of both short-term and long-term<sup>138</sup> visiting premises (which were of a good standard in every prison but of an especially high standard at Enner Mark Prison). Further, sentenced prisoners were allowed to accumulate visiting periods, in particular if their relatives lived far away.

As for access to a telephone, sentenced prisoners could make telephone calls for up to 30 minutes per week. **The Committee invites the Danish authorities to increase this entitlement.**

120. However, although this was not the case at the time of the visit, the delegation was informed by the management and staff at the Western Prison that in the recent past (i.e. in 2023) staff shortages<sup>139</sup> had prevented prisoners from making full use of their visit and telephone call entitlements (in the case of the latter, the entitlement had been temporarily reduced to one call per 10 days). In addition, overcrowding at the Western Prison had obliged the management to provisionally transform some of the long-term visit premises into accommodation for prisoners, additionally restricting inmates' access to visits.

Luckily that unfavourable situation had been overcome (*inter alia* through reopening the Police Square Prison,<sup>140</sup> which had been closed for some time previously); however, **the CPT recommends that continuous efforts be made by the Danish authorities to ensure that sentenced inmates at the Western Prison benefit from their full entitlement to visits and telephone calls.**

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<sup>138</sup> Long-term (conjugal or family) visits could last up to 47 hours at a time (the final, 48<sup>th</sup>, hour being reserved for cleaning the premises).

<sup>139</sup> See paragraph 88 above.

<sup>140</sup> See paragraphs 60 and 67 above.

121. As regards remand prisoners, they were in principle entitled to one visit lasting an hour per week and could make telephone calls with the same frequency and duration as sentenced inmates.

However, the Committee remains seriously concerned by the continuous widespread practice of the police and/or prosecutors imposing restrictions on visits and other forms of communication (telephone calls and correspondence) on remand prisoners (the so-called “B&B”),<sup>141</sup> at least during the initial period of remand imprisonment (usually up to 3 months).

In the prisons visited, up to 50% of all remand prisoners were subjected to “B&B” at any given time, the impact of which being all the greater given the high percentage of remand prisoners among the overall inmate population.<sup>142</sup>

Admittedly, “B&B” never resulted in a total ban on visits (visits by close family members were never prohibited) and correspondence,<sup>143</sup> but as a rule remand prisoners subjected to “B&B” could not make telephone calls<sup>144</sup>; further, visits had to be monitored by custodial staff which often resulted in visits being postponed or shortened (given the limited staff availability). In addition, several foreign prisoners on “B&B” complained that they were often *de facto* unable to receive visitors as no interpretation (required for the prison staff to be able to monitor the conversations) could be ensured.

In the light of the above remarks, **the CPT reiterates its recommendation that the legal, regulatory and practical framework governing remand prisoners’ contact with the outside world be reviewed, particularly as concerns the “B&B” provisions. Steps must be taken that all remand prisoners, without exception, effectively benefit from the entitlement of at least one visit lasting one hour every week. Regarding access to a telephone, this must be granted as a rule; if there is a risk of collusion, calls to a particular person could be restricted by a prosecutor for a certain amount of time but, in any event, the privileged option should be that particular telephone calls could be monitored (rather than prohibited). 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.**

More generally, **the Committee recommends that any restrictions on remand prisoners’ contact with the outside world be subjected to a prior authorization by a body unconnected with the case at hand (e.g. a judge) and be applied for a specified period of time (for example, two weeks or a month), with reasons stated in writing. The relevant decision should be made available to the prisoner concerned and (if the inmate has one) the prisoner’s lawyer.**

122. The delegation was informed at the outset of the visit that prisoners in Denmark were not allowed to make video calls using the Voice over Internet Protocol (VoIP) technology (such as Skype), reportedly for both security and technical reasons. In the prisons visited, the absence of such a possibility was resented by inmates, in particular those whose families resided far away from the prison (including the numerous foreign prisoners).

The Committee acknowledges the technological and security-related challenges related with offering access to VoIP to prisoners. It notes, however, that such access exists in many Council of Europe Member States, apparently without causing any major concerns. **The CPT encourages the Danish authorities to explore ways to facilitate prisoners’ communications through modern technologies (such as VoIP), with due regard to necessary security requirements.**

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<sup>141</sup> “Brev-og besøgsforbud”.

<sup>142</sup> See paragraph 60 above.

<sup>143</sup> Although both outgoing and incoming letters were controlled (not censored) by the police, reportedly resulting in delays in the delivery of correspondence.

<sup>144</sup> Remand prisoners subjected to “B&B” were only allowed to make telephone calls in exceptional justified cases, such as family emergencies.



i. information for prisoners and complaints procedures

123. Danish legislation foresees that prisoners should be informed orally (and, upon their request, in writing) about the establishment's house rules and about their rights (including the avenues of complaint) within 24 hours after admission.<sup>145</sup> As far as the delegation could ascertain, this was indeed done in the prisons visited. In particular, ongoing efforts by the management of the Western Prison to devise simplified versions of the house rules in a variety of languages (including in pictograms) merit to be highlighted as a positive practice, to be expanded to all prisons in Denmark. Written information, in the form of brochures translated into several languages, also existed in the other prisons visited (e.g. in 18 languages at Nyborg Prison); however, not all of the interviewed prisoners were apparently aware of the existence of those brochures.

In the light of the above, **the CPT reiterates its recommendation that written information on house rules and prisoners' rights be systematically distributed to all prisoners upon admission.**

124. Prisoners were able to confidentially lodge complaints addressed to external bodies, including the Parliamentary Ombudsman.<sup>146</sup> As for internal complaints (addressed to the prison's Director or to the DPPA), the procedure was to carry out a preliminary internal inquiry (which could involve interviewing the complainant(s) and/or the prison officer(s) concerned) and attempt to solve the problem internally. If the complaint could not be satisfied, the prisoner would be informed of the possibility of appealing to the court (although not every administrative decision by the Director and DPPA was appealable under the Danish law). If the Director and/or DPPA concluded that the subject-matter of the complaint fell under police jurisdiction, the complaint was referred to the police for further investigation.

125. Upon examination of a number of complaint files (and after discussions with lawyers dealing with complaints in the prisons visited),<sup>147</sup> the delegation concluded that the receipt of internal complaints was usually not acknowledged in writing and prisoners were as a rule not informed about their outcome. Further, there were still no centralized and categorized complaint registers in the prisons visited.

**The Committee reiterates its recommendation that the Danish authorities take steps to improve internal complaint mechanisms by ensuring that prisoners are timely informed of the action taken to address their concerns or of the reasons for considering the complaint unjustified.**

Further, **dedicated complaints registers should be set up in each prison, which would assist the management in assessing the functioning of the complaints system and identifying areas of discontent to be addressed at local, regional or national level.**

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<sup>145</sup> See Section 31 (1) of the Criminal Enforcement Act, Section 7 (1) of the Executive Order No. 399 of 9 April 2015 and Circular No. 9741 of 28 June 2022.

<sup>146</sup> Information on the addresses, telephone numbers and e-mail addresses of these external bodies was available to prisoners.

<sup>147</sup> Those lawyers were part of a nationwide pool established by the DPPA to provide legal advice to the Directors of prisons and to review prisoners' complaints with a view to speeding up the processing of those.

## D. Psychiatric establishments

### 1. Preliminary remarks

126. The delegation visited the Psychiatric Departments of Aarhus University Hospital in order to examine the situation of “civil” psychiatric patients - including young persons at the hospital’s Child and Adolescent Psychiatry Department - and forensic patients. In addition, the delegation paid a targeted visit to Glostrup Psychiatric Centre with a focus on recourse to means of restraint and the legal procedures and safeguards in the context of involuntary treatment of (“civil” and forensic) adult patients.

127. The Psychiatric Departments of Aarhus University Hospital (hereafter Aarhus University Hospital) are part of the Midtjylland Region Psychiatric Hospital. They are located in the large, multi-storey University Hospital complex built in 2018, in the outskirts of the city of Aarhus on the Jutland peninsula. They comprise three departments<sup>148</sup> for “civil” and forensic adult inpatients as well as one inpatient Child and Adolescent Psychiatry Department, with a total capacity of 271 beds on 16 mixed-gender wards. In addition, there are several outpatient clinics. The four departments receive about 4000 inpatients per year, including about 400 to 500 patients in the Child and Adolescent Psychiatry Department.<sup>149</sup>

At the time of the visit, the four Departments were accommodating 244 patients, of whom 128 were men, 96 women and 20 were minors<sup>150</sup> (14 girls and 6 boys). The Forensic Department was accommodating, at the time of the visit, 64 patients; further, 16 forensic patients were accommodated in the “civil” psychiatry Departments. A total of 17 patients were involuntary “civil” patients hospitalised pursuant to the Mental Health Act (MHA).<sup>151</sup> The median length of stay was said to be about 3 months<sup>152</sup> but two patients had stayed at Aarhus University Hospital for 11 and 16 years respectively.

128. Glostrup Psychiatric Centre is part of the Capital Region Psychiatric Hospital, situated at five different addresses within the municipality of Glostrup, on the western outskirts of Copenhagen. It has a total capacity of 189 beds and comprises 13 inpatient wards (seven of them closed) for “civil” and forensic adult psychiatric patients. In addition, there are seven outpatient units and an emergency department. The delegation visited the seven closed wards (two acute emergency wards, three intensive wards for longer term patients, one forensic ward and one ward for elderly psychiatric patients). These mixed-gender wards, located in large one-storey buildings constructed in the 1960s, had an overall capacity of 95 places and received about 2500 patients per year.

At the time of the visit, 87 patients were accommodated on closed wards (29 women and 58 men). Among them, 39 were “civil” involuntary patients and 11 were forensic patients accommodated on the forensic ward; further, a number of other forensic patients were accommodated on the “civil” psychiatric wards. Most patients had stayed at the establishment for some weeks to several months and none had been there for more than 2.5 years.

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<sup>148</sup> Department for Depression and Anxiety, Department for Psychoses and Forensic Department.

<sup>149</sup> Patients accommodated at the Child and Adolescent Psychiatry Department were between 9 and 25 years old.

<sup>150</sup> Under 18 years of age.

<sup>151</sup> LBK No. 1045 of 18 September 2024.

<sup>152</sup> With much shorter median stays of about a week at the Department for Depression and Anxiety and much longer median stays of several years notably at the Forensic Department.

129. From the outset, the CPT wishes to stress that its delegation gained a very positive impression of the quality of care provided to patients in both psychiatric establishments visited. The two establishments appeared to be well-managed and offered a calm and caring environment for the patients.

## 2. Ill-treatment

130. It should be underlined that no allegations of physical ill-treatment by staff were heard from the patients interviewed by the delegation at either of the psychiatric establishments visited. On the contrary, the vast majority of the interviewed patients spoke very positively about the staff and the delegation observed for itself that many staff members displayed a caring and professional attitude vis-à-vis the patients, as well as a high level of professional commitment.

That said, at two Departments of Aarhus University Hospital, the delegation heard several reasonably detailed allegations according to which some staff members had made remarks of a xenophobic character towards certain patients. After the delegation had mentioned this to the management of the Departments concerned, assurances were given that the importance of staff using respectful language vis-à-vis patients was in the management's constant focus and that the delegation's observations would be duly followed up. The Committee welcomes this quick and positive reaction to the delegation's observations.

131. As for inter-patient violence, it did not appear to be frequent in the two psychiatric establishments visited, and staff seemed to react quickly and appropriately whenever any such violence occurred.

## 3. Living conditions

132. The delegation was positively impressed by the excellent living conditions at Aarhus University Hospital,<sup>153</sup> an establishment which had clearly been thoughtfully designed and which provided a positive therapeutic milieu for the patients.<sup>154</sup> This applied in particular to the Forensic Department, where patients were accommodated in a secure yet non-carceral environment.

133. Patients usually lived in large, bright and clean single rooms (measuring approximately 18 m<sup>2</sup> each) with integrated bathrooms (measuring an additional 10 m<sup>2</sup>).<sup>155</sup> Particular attention had been paid to ensuring that the rooms and bathrooms were free of ligature points.<sup>156</sup> Each room was appropriately equipped with a bed, a desk, a chair, a cupboard and a TV-set. Patients could decorate and otherwise personalise their rooms and wore their own clothes.

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<sup>153</sup> As mentioned in paragraph 126 above, the visit to Glostrup Psychiatric Centre was a targeted one, and the delegation did not examine in detail the living conditions offered to patients there.

<sup>154</sup> For instance, there was a dedicated ward for patients from Greenland, which was designed to provide a cultural-sensitive environment with murals of Greenlandic landscapes.

<sup>155</sup> In exceptional cases, two patients shared a room.

<sup>156</sup> For example, showerheads were slanting downwards and hooks had been designed in a such a manner as to break off under heavy weight.

134. The wards had pleasantly furnished communal areas with sofas, armchairs, TV sets and large windows giving to staff offices (fostering staff's accessibility to patients). In addition, each ward had access to an inner garden equipped with tables, chairs, benches, a barbecue and a shelter against inclement weather.<sup>157</sup>

#### 4. Therapeutic staff and treatments available

135. The therapeutic staff complement at the Psychiatric Departments of Aarhus University Hospital<sup>158</sup> could be assessed as being fully adequate (and even generous). On weekdays, two to four doctors were usually on duty during the day shifts on each ward (accommodating up to 24 patients). During the evenings, at nights and on weekends, four doctors were usually in charge of the three adult psychiatry departments together, and two doctors were on call for the Child and Adolescent Psychiatry Department. As for ward-based staff (nurses, orderlies and therapists), six to eight were present in each ward during the day (including on weekends), five to seven during the evenings and three to four during night shifts.

136. As far as the delegation could ascertain, based on interviews with patients and health-care staff and examination of relevant medical documentation, patients at Aarhus University Hospital were offered adequate pharmacotherapy. Further, the delegation was impressed by the excellent range of individual and group therapeutic activities, some of which were also offered during weekends. These included, for example, cognitive-behavioural therapy, a better-life group focussing on substance abuse treatment, physiotherapy and ergotherapy. Patients could engage in sensory stimulating activities (e.g. massage chair, sensory chairs, pressure massage, ear acupuncture), in life skills training or social activities (e.g. barbecues, puzzles, board games). There were also several cooking groups and various sports activities (e.g. access to a large gym or exercise rooms, football, hockey, table tennis, table football, walks and bicycle tours) on offer. Further, patients at the Forensic Department had access to its own large and well equipped "activity centre" which comprised amongst others several arts and crafts workshops, music and sports rooms and an educational kitchen.

137. Upon a patient's admission, a comprehensive individual treatment plan was drawn up which usually also included a part on the patient's own views and in particular their consent to (or refusal of) the proposed treatment.<sup>159</sup> Patients could consult the plan online as they had access to their medical records in the national health system's electronic database. Most patients had received a printout of their plan and its updated versions, as foreseen by the law. The treatment plans were regularly reviewed (at least every 3 months) with the participation of the patient and other staff working with the patient. That said, some patients had apparently not (always) received printouts of their (updated) plans and some plans lacked mention of the patients' views on the proposed treatment. **The CPT trusts that these shortcomings will be remedied.**

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<sup>157</sup> Several of the involuntary patients (both "civil" and forensic) could also leave the establishment, following assessment by health-care staff, and go for walks in the surrounding nature or visit the city for a few hours per day.

<sup>158</sup> The delegation did not focus on staffing issues during its targeted visit to Glostrup Psychiatric Centre (see paragraph 126 above).

<sup>159</sup> As stipulated in Section 3 (3) of the MHA and Chapter 3 of the "Guideline on the Use of Coercion in Psychiatry", VEJ no. 9257 of 19 March 2023.

138. Every patient had at least one contact person amongst the staff members. Patients received cards with the names and contact phone numbers of their contact staff members so that they could easily call them even when they were not present on the ward. Another measure to enable positive staff-patient relations were wall boards placed inside patient accommodation areas, showing photographs of the staff members on duty during the different shifts. The Committee welcomes these positive practices.

## 5. Means of restraint

### a. nationwide efforts to reduce recourse to means of restraint in psychiatry

139. For many years, a major concern for the CPT and other relevant international and national bodies<sup>160</sup> has been the high frequency of recourse to and long duration of measures of restraint, including mechanical restraint (fixation) in Danish psychiatric establishments. In particular, the European Court of Human Rights found in 2020 that Denmark had violated Article 3 of the European Convention on Human Rights in a case of a patient who had been fixated (the “Aggerholm case”).<sup>161</sup>

140. The CPT acknowledges considerable efforts made by the Danish authorities over the recent years to reduce recourse to means of restraint and notably fixation, in particular through increased managerial oversight, recruitment of additional health-care staff and improved staff training.

As regards national restraint statistics, it is indeed commendable that the number of instances of prolonged fixation (that is, for longer than 48 hours) has been reduced significantly, from an annual average of 777 in the period 2011-2013 to 340 in 2022. Further, the number of fixated patients has decreased (from over 2.000 per year in 2011-2013 to 1.177 in 2022 and 1097 in 2023).

However, while also the total number of instances of fixation has decreased over several years, available statistics show that there has again been an increase in the number of instances between 2020 and 2022. In the period between 2011 and 2013, 5.680 cases of use of fixation were registered per year, 3.712 cases in 2020, 4.537 cases in 2021 and 4.904 cases in 2022. It is positive though that in 2023, the number has decreased again, with 4208 instances of fixation.<sup>162</sup>

141. At the outset of the 2024 visit, senior officials from the Ministry of the Interior and Health assured the delegation of the Danish authorities’ ongoing determination to further reduce the recourse to means of restraint in psychiatric establishments.

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<sup>160</sup> Including the European Court of Human Rights and various other stakeholders such as the UN Committee against Torture (CAT), the Council of Europe’s Human Rights Commissioner, the Danish National Audit Office, Danish courts and many Danish non-governmental organisations.

<sup>161</sup> Application No. 45439/18, judgment of 15 September 2020. The case concerned a patient with paranoid schizophrenia who had been placed against his will in a psychiatric establishment. While the Court found that the initial decision to restrain the patient had been justified, the continuation of the measure was not deemed strictly necessary and its duration was considered to be excessive.

<sup>162</sup> The delegation was told that these statistics were at least partly influenced by a change of recording practice in 2020 whereby short restraint instances including fixation used in connection with other interventions (such as forced nutrition or somatic surgeries when a patient had swallowed a dangerous item) were henceforth to be recorded as “psychiatric restraint” while this had not necessarily been the case in the past.

Among other things, they informed the delegation that, within the framework of the current 10-year Action Plan for Psychiatry, a political agreement had been reached between the Government and the parties represented in the Folketing (the Danish Parliament) in November 2023, according to which the recourse to the most intrusive restraint measures, in particular fixation and chemical restraint, should be reduced by at least 30% and up to 40% until 2030, with a special focus on children and juveniles. A national task force for psychiatry, set up by the Ministry of the Interior and Health in 2014, continued to follow developments regarding the use of means of restraint and it was hoped that it would *inter alia* improve the sharing of relevant experience and the dissemination of best practices.

Acknowledging the progress already made, **the CPT reiterates its recommendation that the Danish authorities place continued focus on preventing and reducing recourse to means of restraint in psychiatric hospitals, and instances of fixation in particular. This obviously implies that a reduction in recourse to fixation should not be substituted by an increased use of other, similarly or even more intrusive/coercive means of restraint (e.g. chemical restraint).**

b. recourse to means of restraint in the psychiatric establishments visited

142. In both psychiatric establishments visited, patients in a state of acute agitation could be subject to manual restraint (holding the patient with professional grips), mechanical restraint (fixation) and chemical restraint (administration of rapid acting tranquillisers).<sup>163</sup> The MHA and accompanying official guidelines regulated the application of these measures in detail. Seclusion of patients was not resorted to in the establishments visited as it could only be applied in Denmark's sole high-security psychiatric establishment, namely the Secure Department of Slagelse Psychiatric Hospital.<sup>164</sup>

143. At Aarhus University Hospital (with about 4000 admissions per year), adult patients had been subjected to fixation<sup>165</sup> on 1.167 occasions in 2022, 569 occasions in 2023 and 239 occasions during the first five months of 2024. In most cases, patients had been fixated for periods ranging from several minutes to 8 hours. On a few occasions, fixation was applied for more than 48 hours (in 33 out of 569 cases in 2023 and in 17 cases out of 239 until the end of May 2024). The longest instances of fixation since the beginning of 2023 were of 16, 13 and 8 days. Further, chemical restraint had been administered on 914 occasions in 2023 and on 482 occasions during the first five months of 2024.

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<sup>163</sup> Patients who behaved in a manner representing a serious threat to fellow patients (or who were acutely suicidal or otherwise exposing themselves to a significant harm) could also be subjected to the measure of "personal shielding" (pursuant to Section 18d of the MHA) whereby one or more staff members remained constantly in the patient's immediate vicinity.

<sup>164</sup> "Locking of patients" in either their own or in a seclusion room (as well as the application of "walking restraint") at the Secure Department of Slagelse Psychiatric Hospital is regulated in Sections 18a and 18b of the MHA. For further details on these measures see the report on the CPT's 2019 visit to Denmark, CPT/Inf (2019) 35, paragraphs 168 to 178.

<sup>165</sup> The equipment used were textile belts for up to five-point restraint. On all "civil" wards, fixation was applied in the patients' (single) rooms. On the forensic wards, fixation restraint was applied in a dedicated "observation room".

144. At Glostrup Psychiatric Centre (with about 2500 admissions per year), fixation<sup>166</sup> had been resorted to on 138 occasions in 2022, on 66 occasions in 2023 and on 31 occasions during the first five months of 2024. The longest instances had lasted 10, 8 and 5 days (in 2024). In addition, chemical restraint had been applied 753 times in 2022 and 380 times in 2023. In the first five months of 2024, patients had been subject to chemical restraint on 211 occasions.

145. As highlighted many times in the past, frequent and prolonged fixation, lasting for hours or even days, is a matter of serious concern for the CPT. According to the medical documentation examined in the two psychiatric establishments visited, patients involved had indeed displayed extremely challenging behaviour, seriously endangering themselves or others. In many cases, fixation had been applied shortly after the patient's admission when the patient was acutely psychotic or in an otherwise acute mental condition.

In this context, the delegation observed that preventing excessive recourse to fixation (and other means of restraint) was indeed a clear and permanent focus for the committed management and staff in the psychiatric establishments visited, a task also facilitated by adequate staffing levels (see paragraph 135 above). The delegation observed several positive practices such as the managements making clear to staff (on an ongoing basis) the crucial importance of fostering good staff-patient relations, mandatory regular initial and ongoing training for staff in de-escalation techniques, systematic debriefings for staff after each instance of restraint,<sup>167</sup> appointing experienced nurses and therapists (on a rotation basis) as "prevention instructors"<sup>168</sup> and employing so-called "acute physiotherapists".<sup>169</sup>

The delegation was also informed that health-care staff used certain elements of the so-called "Safewards" model<sup>170</sup> and were advised to actively seek to recognize patients' personal triggers for agitation and discuss with patients in advance what kind of support they would like to be offered when approaching an acute state (e.g. a walk, tranquilizing medicine, talking with a person of trust, using a massage chair, etc.). A respective "crisis intervention plan", which also specified the patient's preferences in case restraint had to be resorted to,<sup>171</sup> was subsequently drawn up for every patient - as a rule with the patient's participation - and made accessible to the patient. Another positive practice were regular meetings of hospital staff and police aimed at reducing the use of force upon involuntary admissions, described in paragraph 150 below. Whenever a patient was fixated, health-care staff attempted from the very outset to come to an agreement with the patient to stop the measure. Trials, e.g. for going to the toilet, were made as early as possible and repeated later if they had failed. It was also positive in this connection that the "observation rooms" used on some wards for fixation had a sofa, a TV and even a terrasse (e.g. for smoking) which allowed to gradually phase-out the measure before the patient was ready to rejoin the general accommodation.

While welcoming all the aforementioned efforts, given how intrusive fixation is, **the Committee strongly encourages the managements of Aarhus University Hospital and Glostrup Psychiatric Centre to pursue their efforts to reduce the length and the frequency of fixation and other forms of restraint.**

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<sup>166</sup> The equipment used were either textile or leather belts for up to five-point restraint. Fixation was either applied in a dedicated "observation room" or in the patient's own room.

<sup>167</sup> Seeking ways to better respond to similar situations in the future.

<sup>168</sup> Who could be called by ward-based staff in acute situations for support and advice.

<sup>169</sup> Trained to intervene and possibly calm down agitated patients.

<sup>170</sup> 'Safewards' is a program that provides practical guidance for reducing resort to means of restraint on psychiatric wards, as well as preventing conflicts between patients and staff. See <https://www.safewards.net>.

<sup>171</sup> E.g. holding, fixation or chemical restraint.

146. As far as the delegation could ascertain, after the end of the fixation measure a debriefing was usually held with the patient (in addition to the above-mentioned regular debriefings amongst staff, see paragraph 145 above). The software which was used to record instances of fixation automatically reminded health-care staff that a debriefing had to be carried out.<sup>172</sup> That said, in many cases such debriefing had not been recorded in the system at Aarhus University Hospital (which, naturally, did not necessarily mean that it had not taken place). **The CPT recommends that steps be taken at Aarhus University Hospital to ensure that a debriefing with the patient takes place after the end of each episode of fixation, and that this fact is systematically recorded.**

147. At the Department for Child and Adolescent Psychiatry of Aarhus University Hospital (with up to 500 admissions per year), the delegation observed that fixation (the same method as used for adult patients) could sometimes be applied to juvenile patients. For example, in the period between the beginning of January 2023 and the end of May 2024, 18 such patients (aged 14 to 17) had been fixated on 237 occasions.<sup>173</sup> However, it is important to note that the majority of these instances (179 out of 237) – including both cases of patients younger than 15 – had concerned situations when fixation had been resorted to for short periods, in order to enable forced nutrition of juveniles suffering from eating disorders in a situation where their life or their health was at serious risk, and when manual holding was not sufficient to contain the patient.<sup>174</sup> In some cases, this had apparently been necessary several times a week over a longer period.<sup>175</sup> According to the information provided by health-care staff and corroborated by relevant documentation, these instances had lasted only as long as needed for the nutrition, usually 10 to 30 minutes.

In the remaining 58 instances, 13 juvenile patients had been fixated for periods of 10 minutes up to several hours and in one case for more than a day, usually due to their extreme agitation or to prevent an imminent risk of suicide. The delegation was particularly concerned by the fact that four of those patients – aged 15 to 17 – had been fixated for prolonged periods, from 20 to 34 hours.

Juveniles were sometimes also administered chemical restraint. This had occurred on 26 occasions in 2023 and on 12 occasions during the first five months of 2024.

148. Although it was clear – from the examination of patients’ medical files and discussions with personnel – that staff made constant efforts to use fixation of juveniles as little and for as short as possible, the CPT must reiterate its view that, in light of the particular vulnerability of underage patients, it has serious misgivings about the application of mechanical and chemical restraint in respect of them. Both means should only be used, if at all, as a measure of absolute last resort and any fixation should be terminated as soon as possible. In some cases, when manual restraint (holding) is not sufficient to calm down agitated juveniles, they might be contained in unlocked “time-out” rooms with staff present.

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<sup>172</sup> The debriefing was obligatory according to Chapter 7 of the “Guidelines on the Use of Coercion in Psychiatry” (see footnote 159 above).

<sup>173</sup> The “Guideline on the Use of Coercion in Psychiatry” (see footnote 159 above) stipulates in Chapter 9.1. that whenever considering coercion of a juvenile patient, the patient’s age must be taken into account and that “serious interventions, such as forced immobilisation should generally not be used on patients under the age of 15”.

<sup>174</sup> According to Section 7 of the “Executive Order on the Use of Coercion other than Deprivation of Liberty in Psychiatric Wards” (BEK No. 1075 of 27 October 2019), only involuntary patients can be subjected to forced nutrition and only when necessary to save the patient’s life or when failure to nourish the patient would result in a serious risk to patient’s life or health.

<sup>175</sup> For example, 121 of these instances had concerned one particular patient who had had to be forcefully nourished several times a week over a period of six months.



**The Committee recommends that steps be taken to fully implement these precepts at the Department for Child and Adolescent Psychiatry of Aarhus University Hospital and, more generally, in all other psychiatric establishments accommodating juvenile patients in Denmark.**

149. As already mentioned in paragraph 10 above, the delegation observed in both psychiatric establishments visited that police officers occasionally remained present during agitated patients' psychiatric admission examination and/or while the patients were subjected to a strip search (usually upon their admission). Moreover, on rare occasions (approximately once a month), the police could be called by health-care staff (or asked to remain present after an admission) to support ward-based staff in restraining particularly agitated patients. The delegation was told that often the police's mere presence was sufficient to bring the situation under control. However, police could sometimes also be actively involved "hands-on" in fixating a patient or when staff administered chemical restraint. Further, upon involuntary admissions, patients were occasionally accompanied by the police on the ward while still being handcuffed.

150. It was clear from the delegation's conversations with the management and staff in the two psychiatric establishments that the involvement of the police was considered as a very exceptional measure of last resort.<sup>176</sup> Whenever it happened, the incident was afterwards analysed at the regular staff meetings. In addition, two or three times a year, meetings were held with the police to discuss how to better collaborate and deescalate in violent admission situations, and some police officers participated in the establishments' in-service de-escalation training.

These are all commendable practices which, however, do not dissipate the Committee's serious reservations about the presence of police officers inside psychiatric establishments. The CPT does acknowledge that, in exceptional situations (i.e. when weapons or hostage taking are involved), the assistance of the police may be unavoidable. However, health-care staff should generally be sufficient in number and able to handle violent situations without recourse to the police.

**The Committee recommends that steps be taken at Aarhus University Hospital and Glostrup Psychiatric Centre (and in all other psychiatric establishments in Denmark, as applicable) to limit any presence of police officers to absolutely exceptional situations.**

**The CPT further recommends that if, very exceptionally, it is considered necessary by the healthcare professional involved that police officers remain present upon an agitated patient's admission, the medical examination must be conducted out of their hearing and, if possible, also out of their sight.**

**"Special means" (including handcuffs) should never be used in a psychiatric setting to handle agitated patients, including during a patient's admission.**

151. In both psychiatric establishments visited, health-care staff spoke very positively about a practice under which, when the police brought a patient to the establishment, a nurse would be called to accompany the patient already in the police car and to advise police officers on how to interact with the patient. Staff told the delegation that the presence of the nurse often had a deescalating effect and frequently prevented the use of force by the police and upon the person's admission to the hospital. Unfortunately, the aforementioned practice had reportedly been discontinued shortly before the CPT's visit. **The Committee would welcome the Danish authorities' observations on this subject.**

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<sup>176</sup> Usually, when a patient could not be contained by the staff present, an efficient alarm system was used, at least at Aarhus University Hospital, to quickly call additional staff from other wards.

c. procedural safeguards in the context of resort to means of restraint

152. In addition to the efforts made on the national and local level to reduce recourse to means of restraint, described in paragraphs 140, 141, 145 and 148 above, the delegation gained a generally positive impression of the implementation, in both psychiatric establishments visited, of the relevant procedural safeguards, especially as regards fixation.

153. The decision to apply fixation could only be taken by a doctor after an individual assessment and was subsequently approved “as soon as possible” by a senior psychiatrist (*overlaege*).<sup>177</sup> The measure was then subjected to a medical review<sup>178</sup> at least three times a day at specified intervals (at least 4 hours after the initiation of fixation and subsequently at evenly spread intervals of 10 hours maximum).<sup>179</sup>

If fixation lasted longer than 24 hours, additional reviews were carried out by a second psychiatrist from a different hospital ward after 24 hours, 48 hours, 4 days and 7 days after the initiation of the measure, and thereafter once a week.

154. During the application of the measure of fixation, patients had to be under permanent supervision by health-care staff.<sup>180</sup> In practice, the delegation observed in both psychiatric establishments visited that a staff member was usually permanently present inside the room. However, it appeared that patients fixated on forensic wards were sometimes only supervised by a staff member through a window from an adjacent room.

By email of 13 September 2024, the CPT was informed by the management of the Forensic Department of Aarhus University Hospital that exceptions from the rule of permanent presence of health-care staff members inside the rooms where patients were fixated were only allowed when deemed necessary in individual cases (i.e. if requested by the patient, if required by the patient’s mental state or if the patient displayed seriously distressing/threatening behaviour). It was further stated that, this notwithstanding, staff had to enter the rooms and directly check the patient’s condition at least every 30 minutes.<sup>181</sup> The Committee takes note of this additional information.

155. In accordance with Section 16 of the MHA and a recently adopted specific guideline,<sup>182</sup> supervising health-care staff were required to document fixated patients’ condition at least every 15 minutes in a dedicated logbook. The CPT welcomes the introduction of this new procedural safeguard.

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<sup>177</sup> See Section 15 of the MHA.

<sup>178</sup> See Section 21 (4) of the MHA.

<sup>179</sup> The intervals could be disregarded if the patient was asleep and waking the patient would be harmful. Pursuant to the “Guideline on the Use of Coercion in Psychiatry” (see footnote 159 above), ward-based health-care staff should in such cases call a doctor as soon as the patient wakes up, in order for the doctor to assess if restraint is still necessary.

<sup>180</sup> See Section 16 of the MHA and Chapter 4 of the “Guideline on the Use of Coercion in Psychiatry”.

<sup>181</sup> The CPT was also informed that it was planned to put in place an obligation for health-care staff to record in writing the reasons for any such exceptions, and to discuss them at the debriefing meetings amongst staff and with the patient.

<sup>182</sup> Chapter 2 of the “Guideline on the Supervising Staff’s Duty to take Notes during Belt Restraint”, VEJ No. 9285, 4 March 2022.

156. Another important safeguard was that patients subjected to any means of restraint<sup>183</sup> were automatically and immediately provided with specially appointed and trained patient advisors<sup>184</sup> whose task was to guide the patients and assist them with any complaints or appeals, including against restraint measures. Patient advisors were independent of the psychiatric establishments and bound by the duty to respect medical confidentiality. Patients indeed regularly filed complaints about recourse to coercive measures to the independent Patient Complaints Board<sup>185</sup> and subsequently to the Patient Appeals Board<sup>186</sup> (and eventually further to a court). Easy-to-use forms were available to them and made this safeguard effective.

157. As regards the specific safeguards for juvenile patients subjected to any means of restraint, recently introduced legal provisions<sup>187</sup> stipulated that such measures<sup>188</sup> applied to patients younger than 15 were to be considered as coercion, irrespective of whether their parents (or guardians) had (or had not) expressed their consent to them. As a result, all the aforementioned safeguards, including the appointment of patient advisors, the right to complain<sup>189</sup> and to have one's case tried in court<sup>190</sup> apply now to all patients regardless of their age. These new provisions are to be welcomed.

158. The delegation was informed at Aarhus University Hospital that whenever voluntary patients became agitated or acutely suicidal and were subjected to fixation, they were asked after one or two hours or at the latest after the end of the fixation measure whether they agreed to remain voluntarily in the establishment. If they did not agree, and the doctors considered that continuous hospitalisation was necessary, the involuntary hospitalisation procedure was immediately initiated.<sup>191</sup>

In this context, **the Committee reiterates its recommendation that if voluntary patients are considered to be in need of fixation, their legal status as “voluntary” should be reviewed immediately, with the aim of providing them with all legal safeguards accorded to involuntary patients. The review of their legal status should not be delayed until after release from fixation.**

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<sup>183</sup> As well as involuntary hospitalization and treatment, see paragraph 159 below.

<sup>184</sup> Pursuant to Sections 24 to 30 of the MHA.

<sup>185</sup> Patient Complaints Board consists of a Chairperson (the Director of Danish Appeals Boards Authority or an employee appointed by him/her) and two members, appointed by the Minister of Interior and Health upon recommendation of the Danish Medical Association and the Danish Handicap Organisation (see Section 34 of the MHA).

<sup>186</sup> Patient Appeals Board consists of the Chairperson who is a judge, two psychiatrists and two members from the Danish Handicap Organisation (see Section 38a of the MHA).

<sup>187</sup> See the new Section 1 (4) of the MHA.

<sup>188</sup> As well as involuntary hospitalization and treatment, see paragraph 159 below.

<sup>189</sup> See Section 35 of the MHA.

<sup>190</sup> See Section 37 of the MHA.

<sup>191</sup> See paragraph 159 below.

## 6. Legal safeguards in the context of involuntary hospitalisation and treatment

159. It is recalled that in Denmark, “civil” involuntary hospitalisation may be decided if a person is considered “insane” (or in a comparable state) and when, at the same time, hospitalisation is considered indispensable for a decisive improvement of their condition, or if the persons concerned represent an imminent and significant danger to themselves or to others.<sup>192</sup>

The decision on such hospitalisation must be taken by a senior psychiatrist from the admitting hospital, based on a medical certificate drawn up by a doctor independent of the establishment (usually a general practitioner).<sup>193</sup> Patients may appeal against the decision (or the decision to continue the involuntary hospitalisation) to the Patient Complaints Board and subsequently to the Patient Appeals Board and to a court in the same way as against the application of means of restraint (see paragraph 156 above). As mentioned in the aforementioned paragraph, patients subjected to “civil” involuntary hospitalization have an independent patient adviser appointed *ex officio* as from the very outset of their placement. However, the delegation was not in a position to ascertain whether such patients also have access to *ex officio* legal assistance (in the manner that forensic patients do, see paragraph 163 below). **The CPT would like to receive clarification of this point from the Danish authorities.**

160. From the examination of patients’ files and interviews with patients and staff in the two psychiatric establishments visited it transpired that the aforementioned procedures were, as a rule, duly implemented in practice. In particular, decisions on “civil” involuntary hospitalisation were well reasoned and documented, and patients were provided with written copies of the decisions concerning them, together with information on the avenues of complaint, drawn up in an easily understandable manner. Patient advisors were indeed immediately informed of every involuntary hospitalisation decision and usually quickly came to see the patients concerned on the wards.

161. The legally required internal reviews of the need for continued involuntary “civil” hospitalisation were carried out by senior psychiatrists 3, 10, 20 and 30 days after admission, and thereafter every 4 weeks. That said, despite the CPT’s previous recommendations, the procedure still did not require the involvement of a psychiatrist independent of the department where the patient was involuntarily hospitalised.

**The CPT reiterates its recommendation that steps be taken, including at a legislative level, to ensure that the internal review of “civil” involuntary hospitalisation require the opinion of a doctor independent of the psychiatric department accommodating the patient concerned. The Committee further invites the Danish authorities to introduce an effective mechanism for independent external reviews of patients’ involuntary hospitalisation, at reasonable intervals.**

162. The delegation was informed by health-care staff at Aarhus University Hospital that “civil” voluntary patients requesting release were usually asked to wait for up to two hours for the doctor’s assessment and decision. Thereafter they could either leave the hospital or the involuntary hospitalisation procedure was initiated.

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<sup>192</sup> See Sections 6 (3) and 5 of the MHA.

<sup>193</sup> See Sections 7 and 9 of the MHA.

However, the fact that Section 10 (3) of the MHA still provides that voluntary patients' requests for discharge must be responded to by a senior psychiatrist only "as soon as possible and at least within 24 hours" is a matter of concern. **The CPT recommends that the aforementioned legal provision be amended. Voluntary patients who no longer wish to remain hospitalised should be discharged without any delay.**

Further, a "civil" patient's voluntary stay in hospital may be transformed into involuntary hospitalisation upon the decision of a senior psychiatrist. Despite the recommendations made by the Committee in its previous reports, such transformation of a voluntary hospitalisation into an involuntary one still does not require the involvement of another doctor independent of the department accommodating the patient concerned. In the CPT's view, patients concerned should benefit from the same safeguards as other "civil" involuntary patients. **The Committee recommends that the MHA be amended accordingly.**

163. As regards forensic patients hospitalised in psychiatric establishments by court order in the context of criminal proceedings, the Danish law allows them to request a judicial review of their placement every six months. Patients must be informed about this right in writing when receiving the court's compulsory hospitalisation decision.<sup>194</sup> Apart from that, the competent prosecutor is required by law to assess the need for continued compulsory hospitalisation (on the basis of the treating psychiatrist's opinion and, if required by the case, of a statement from the DPPA) at least once a year and may, in this connection, initiate a judicial review. Unless the case has been submitted to the court within the last two years, a court review takes usually place at least five years after the beginning of compulsory hospitalisation and thereafter every second year.<sup>195</sup> During the court review, the patient is heard in person and represented by a lawyer free of charge.

In this context, the CPT must stress that, in its view, the aforementioned intervals for *ex officio* court reviews are too long. More frequent automatic reviews are necessary because forensic patients may not always be able and/or willing to themselves request such reviews of their compulsory hospitalization. Furthermore, commissioning, at reasonable intervals, in the context of these reviews, a psychological or psychiatric expert opinion (as appropriate) which is independent of the psychiatric establishment in which the patient is accommodated, would offer an important additional safeguard.

**The Committee therefore recommends that the frequency of *ex officio* judicial reviews be increased for patients detained under a forensic placement decision, to once per year for example. The CPT also recommends that the current legislation be amended so as to introduce the requirement of obtaining an external psychological or psychiatric opinion in the context of such judicial review.**

164. The MHA and the respective Executive Order<sup>196</sup> provide for a number of safeguards in the context of involuntary treatment of patients hospitalised in psychiatric establishments. In particular, patients may only be involuntarily treated if the conditions for their "civil" involuntary or forensic hospitalisation are met. Further, involuntary treatment can only take place as a measure of last resort if non-treatment would put the patient's life or health in serious danger.

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<sup>194</sup> See Section 72 (2) of the Criminal Code.

<sup>195</sup> See Section 68a of the Criminal Code.

<sup>196</sup> See Sections 12 and 13 of the MHA and Chapter 1 of the "Executive Order on the Use of Coercion other than Deprivation of Liberty in Psychiatric Wards".

Prior to the beginning of such involuntary treatment, several attempts must be made to explain the necessity of the treatment to the patient (except if delayed treatment would endanger the patient's life or health). The patient must further be fully informed about the purpose and possible side effects of the proposed treatment, must have the opportunity to discuss the matter with the patient advisor and is entitled to "appropriate reflection time" of up to 3 days. Further, the decision to start such involuntary treatment must be taken by a senior psychiatrist and a doctor must always be present during the treatment. As with other coercive measures, patients can file a complaint against involuntary treatment to the Patient Complaints Board and later appeal the Board's decision (see paragraph ...below). Such complaints can, in some cases, have suspensive effect.

165. The examination of the relevant medical documentation and interviews with patients and health-care staff led the delegation to the conclusion that the aforementioned safeguards were implemented in practice in both psychiatric establishments visited, including in respect of forensic patients and minors. As regards, in particular, the decision-taking by a doctor, the delegation was pleased to note that, in practice, two doctors were as a rule involved in the decision to treat patients against their will.<sup>197</sup> To sum up, the practice in this respect was satisfactory.

## 7. Contact with the outside world

166. The delegation observed in both psychiatric establishments visited that patients could receive visits every day for up to several hours. Further, parents visiting patients at the Child and Adolescent Psychiatry Department of Aarhus University Hospital could stay there overnight, sleeping on mattresses placed for this purpose inside their children's rooms.

There were no restrictions on outgoing and incoming correspondence and patients had usually access to the Internet. Patients in both establishments could also make frequent telephone calls, usually with their own mobile phones which the majority of them was allowed to keep.<sup>198</sup> That said, the delegation noted that some patients could not use their mobile phones. **The CPT would like to be informed of the rules in force and criteria applied to restrict patients' use of their own mobile phones.**

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<sup>197</sup> Firstly, the treating doctors discussed the need for a specific treatment with the patients and tried to convince them to give consent to the treatment, and secondly, if this could not be achieved and involuntary treatment was indeed considered necessary, senior psychiatrists took the final decision.

<sup>198</sup> If necessary, patients who had no mobile phone would also be allowed to make telephone calls, using the establishment's phones.

## **APPENDIX I**

### **LIST OF ESTABLISHMENTS VISITED BY THE CPT'S DELEGATION**

#### **Police establishments**

- Aarhus Police Headquarters
- Albertslund Police Headquarters
- Bellahøj Police Station (Copenhagen)
- Horsens Police Headquarters
- Odense Police Headquarters

#### **Establishments for foreign nationals detained pursuant to aliens' legislation**

- Ellebæk Centre for Foreigners

#### **Prisons**

- Western Prison, Copenhagen
- Police Square Prison (Polititorvets Arrest), Copenhagen
- Nyborg Prison
- Enner Mark Prison, Horsens

#### **Psychiatric establishments**

- Midtjylland Psychiatric Hospital
- Psychiatric Centre Glostrup

## APPENDIX II

### LIST OF THE NATIONAL AUTHORITIES, OTHER BODIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

#### A. National authorities

##### Ministry of Justice

Carsten Madsen	Deputy Permanent Secretary
Maria Hanna Carlsson	Head of Police Division
Jakob Hüttel	Deputy Head of Police Division
Anders Just Christensen	Head of Section, Police Division
Tage Jehn	Chief Superintendent, Center for Crisis Management, Danish National Police
Birgitte Buch	Head of Sector, Legal Department, Uniformed Policing and Emergency Preparedness, Danish National Police
Maria Bislev	Head of Sector of the Policing Division, Center for Policing Governance, Danish National Police
Marjun Jogvansdottir	Police Assessor
Henrik Alstrup-Andersen	Police Commissioner
Thomas Jørn Rasmussen	Acting Head of Criminal Enforcement Division
Camilla Marta Giordano	Deputy Head of Criminal Enforcement Division
Nikolaj Mielcke Siekstele	Head of Section, Criminal Enforcement Division
Goran Kreso	Head of Client Management and Processing, Centre for Sentence Enforcement, Department of Prisons and Probation
Sarah Juul Ekknud	Acting Head of Client Supervision and Control, Centre for Sentence Enforcement, Department of Prisons and Probation
Rikke Ekholm Møllgaard	Acting Manager in the Rehabilitation Unit, Centre for Sentence Enforcement, Department of Prisons and Probation
Maja Sass Nielsen	Head of the Practical Implementation of the Danish prison in Kosovo, Centre for Building and Property, Department of Prisons and Probation
Christian Høygaard	Director of the Prisons and Probation Service in Greenland
Christine Berg	Deputy Head of International Division
Emma Dencker Steenberg	Head of Section, International Division

##### Ministry of Interior and Health

Andreas Jull Sørensen	Deputy Permanent Secretary
Carlo V. Andersen	Head of Unit, Psychiatry and Substance Abuse
Nina Fjord Fromberg	Senior Advisor, Psychiatry and Substance Abuse
Christian Ulrich Eriksen	Special Advisor, Global Health Unit



## **Ministry of Immigration and Integration**

Christina Fløystrup	Head of Division for Return and Readmission
Bjørn Bruun Østergaard	Deputy Head of Division for Return and Readmission
Christoffer Buchhave	Deputy Head of Division for Return and Readmission
Birgit Enevoldsen	Head of Section, Division for Return and Readmission
Birgitte Krohn Madsen	Senior Consultant, Legal Department, Section for Public Law

## **Ministry of Foreign Affairs**

Ulf Melgaard	Director of International Law and Human Rights
Hélène Fester	Special Advisor, International Law and Human Rights

## **B. Other bodies**

### **Director of Public Prosecutions**

Iren Mirmojtahedi Hagen	Assistant Deputy Director of Public Prosecutions
Stig Fleischer	Senior Specialist Prosecutor
Stine Kok Nissen	Prosecutor

### **Parliamentary Ombudsman/National Preventive Mechanism**

Niels Fenger	Parliamentary Ombudsman
Lisbeth Adserballe	Senior Head of Department
Louise Christophersen	Senior Head of Division
Ann Thagård Gregersen	Deputy Head of Department
Morten Engberg	Chief Legal Advisor

## **C. Non-governmental organisations**

Amnesty International  
Association of Aliens' Lawyers  
Better Psychiatry  
Danish Refugee Council  
Dignity  
Forsete, Legal and Criminal Policy Think Tank  
International Rehabilitation Council for Torture Victims (IRCT)  
Refugees Welcome