



CPT/Inf (97) 4

**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 29 September to 9 October 1996**

The Danish Government has requested the publication of this report.

Strasbourg, 24 April 1997



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Copy of the letter transmitting the CPT's report

Strasbourg, 3 April 1997

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Denmark drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Denmark from 29 September to 9 October 1996. The report was adopted by the CPT at its 32nd meeting, held from 10 to 14 March 1997.

I would draw your attention in particular to paragraph 154 of the report, in which the Committee requests the Danish authorities to provide an interim and a follow-up report on action taken upon its report. The CPT would ask, in the event of the latter reports being forwarded in Danish, that they be accompanied by an English or French translation.

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

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Claude NICOLAY  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

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## I. INTRODUCTION

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

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Denmark from 29 September to 9 October 1996.

The visit formed part of the CPT's programme of periodic visits for 1996, and was the second periodic visit to Denmark to be carried out by the Committee (the first periodic visit having taken place in December 1990).<sup>1</sup>

2. The delegation consisted of the following members of the CPT:

- Ms Ingrid LYCKE-ELLINGSEN, 1st Vice-President of the CPT (Head of Delegation);
- Mr Jón BJARMAN;
- Ms Pirkko LAHTI;
- Ms Maria SCIBERRAS;
- Mr Demetrios STYLIANIDES.

The delegation was assisted by:

- Mr James MacKEITH, Consultant Forensic Psychiatrist, The Bethlem Royal and Maudsley Hospitals, London (expert);
- Mr Rodney MORGAN, Professor of Criminal Justice, University of Bristol (expert);
- Ms Bodil ASHKENAZY<sup>2</sup> (interpreter);
- Mr John BINDER (interpreter);
- Ms Claire DUVANTIER (interpreter);
- Ms Lena FLUGER (interpreter);
- Mr Jan Als JOHANSEN (interpreter);
- Mr Michael MURPHY (interpreter);
- Ms Aase PEERLESS (interpreter).

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<sup>1</sup> The Committee's report on its first periodic visit and the responses of the Danish Government have been made public at the request of the Danish authorities (as, respectively, documents CPT/Inf (91) 12 and CPT/Inf (96) 14).

<sup>2</sup> The dates of participation of the delegation's interpreters varied. The delegation was assisted by no more than four interpreters at any one time.

The delegation was also accompanied by the following members of the CPT's Secretariat:

- Mr Mark KELLY;
- Ms Petya NESTOROVA;
- Mr Borys WÓDZ.

**B. Establishments visited**

3. The delegation visited the following places of detention:

Police establishments

Århus

- Police Headquarters

Copenhagen

- Police Headquarters
- Police Station No. 1
- Police Station No. 2
- Police Station No. 3
- Police Station No. 6
- Mobile Squad (*Uropatruljen*)

Esbjerg

- Police Headquarters

Horsens

- Police Headquarters

Prisons

Copenhagen

- Herstedvester Institution
- Police Headquarters Prison
- Western Prison

Esbjerg

- Esbjerg Local Jail (*Arresthuset*)

Horsens

- Horsens State Prison

**C. Consultations held by the delegation**

4. In addition to meeting with the local officials in charge at the places visited, the delegation held consultations with national authorities and with representatives of non-governmental organisations and other persons active in areas of concern to the CPT.

A list of the national authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix II to this report.

**D. Co-operation encountered during the visit**

5. As had been the case during the Committee's 1990 visit to Denmark, the delegation's meetings with the national authorities at both the start and the end of the visit took place in a spirit of close co-operation. The detailed discussions held on matters of substance served to develop the ongoing dialogue which began with the CPT's first periodic visit.

6. The delegation received a satisfactory reception from management and staff in all of the places of detention visited, including those which had not been notified in advance that a visit would take place. It found that the majority of them were aware of the possibility of a CPT visit and had at least some knowledge of the CPT's terms of reference.

7. In conclusion, the CPT welcomes the spirit of co-operation encountered before, during and after the delegation's visit to Denmark, which was in accordance with Article 3 of the Convention.



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

### A. Police establishments

#### 1. Introduction

8. In the course of its second periodic visit to Denmark, the CPT's delegation visited a total of nine police establishments - the Police Headquarters in Århus; the Police Headquarters, the Mobile Squad (*Uropatruljen*) and four police stations in Copenhagen; and the Police Headquarters in Esbjerg and Horsens.

9. The legislation and subsidiary rules concerning the detention, treatment and questioning of persons detained by the police were summarised in the report drawn up after the CPT's first periodic visit (cf. CPT/Inf (91) 12, paragraph 11 and Appendix II).

There have been few, if any, significant legislative changes in this area since the 1990 visit. Nevertheless, the Danish authorities have recently produced a draft Circular on safeguards to be accorded to persons deprived of their liberty. The CPT's views on the content of that draft Circular are set out in the "safeguards against ill-treatment" section of this report (cf. paragraphs 25 to 45). Without prejudice to the CPT's remarks on the substance of the draft Circular, the Committee would like to be informed of the date on which the Danish authorities envisage that it will enter into force<sup>3</sup>.

#### 2. Torture and other forms of ill-treatment

10. As had been the case in 1990, the CPT's delegation heard no allegations of torture having been inflicted by police officers on persons held in police establishments in Denmark. Moreover, the great majority of the persons met by the delegation who were, or recently had been, detained by the police indicated that they had been correctly treated, both at the time of arrest and during questioning.

However, a certain number of allegations were heard from persons detained by the police and from prisoners of the disproportionate use of force by police officers, in particular at the time of apprehension. None of those persons bore marks consistent with their allegations; however, given the time which had elapsed since the alleged ill-treatment, any injuries they might have sustained would almost certainly have healed.

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<sup>3</sup> In a letter received on 14 March 1997 (i.e. two days after the adoption of this report), the Danish authorities forwarded an English translation of the Circular in question, which had entered into force on 20 January 1997.

11. It should be added that, in the course of discussions with a senior police prosecutor and with district public prosecutors, the delegation was able to examine a number of formal complaints about ill-treatment by the Danish police which are (or have been) the subject of official investigations. Certain of those cases included medical findings which lent credence to the allegations of the persons concerned. The two following cases were of particular interest:

- a woman alleged that, at the time of her apprehension in Copenhagen on 21 August 1996, police officers had struck her face against a wall. When examined at the Forensic Medical Institute on 22 August 1996, she displayed injuries including: "purplish red, subcutaneous bleeding on the left cheekbone - measuring 7 cm from back to front, and 1 cm in height, stretching from 1 cm from the outside angle of the left eye to 1 cm from the opening of the left ear". The doctors who completed the forensic medical certificate concluded that: "this injury was fresh and had been caused by light blunt violence. The injury may have been caused in the way the patient alleged and at the time alleged by her, although we cannot exclude other causes for its existence";
- a man alleged that, when apprehended in Copenhagen on 11 August 1995, police officers had beaten him with truncheons on his sides and on his left arm. A medical certificate completed on 15 August 1995 stated that, "as a result of blows from a police truncheon", the person concerned had sustained the following injuries: "two large haematomas on the right hand side, one smaller haematoma on the left hand side, above the kidney region, and one large haematoma on the left arm". It also recorded that, two days after the alleged assault, blood was found in his urine.

12. The CPT fully recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest and/or is someone whom the police have good reason to believe represents an immediate danger. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by police officers.

**The CPT recommends that police officers be reminded of these precepts.**

13. Reference should also be made to the use by the police of the means of restraint known as the "leg lock"; a matter which has been the subject of an exchange of correspondence between the CPT and the Danish authorities (cf. page 160 and pages 182 to 183 of document CPT/Inf (96) 14). The application of the so-called "fixated leg lock" (in which a detainee is handcuffed behind his back, one of his legs is flexed across the other, and one foot is wedged behind his handcuffed wrists) was suspended by the Minister for Justice in a Circular of 29 June 1994. However, the police are still authorised to use a number of other forms of leg-lock restraint. Those latter forms of leg lock have recently been the subject of an exhaustive medico-legal review<sup>4</sup>, which has clarified the manner in which certain of these methods are to be applied.

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<sup>4</sup> cf. the "Report on the Medical Review and Assessment of Police Self-Defence Holds and Techniques" (Copenhagen, National Commissioner of Police, 1996).



Nonetheless, the delegation was concerned by the content of a recent official complaint concerning a person (arrested in Copenhagen on 21 July 1996) to whom a "manual" leg lock had been applied. Apparently as a consequence of the manner in which she was restrained, the person concerned sustained a broken leg (left tibia, just below the knee) and a shattered knee cap.

**The Committee recommends that the Danish authorities continue closely to monitor cases involving the application of "leg lock" means of restraint, to ensure that they are not, on occasion, being applied by police officers in an over-zealous fashion. In addition, it would like to be informed of the outcome of the investigation into the above-mentioned case.**

14. The delegation also received a number of allegations from representatives of non-governmental organisations to the effect that police officers on occasion drag detainees to distant police vehicles by their handcuffed wrists, without providing any support to their arms and shoulders. These claims were corroborated by convincing photographs and video images.

The Committee wishes to make clear that the act of so suspending a person by the wrists can - if prolonged - cause peripheral nerve damage of a potentially serious nature. **The CPT recommends that police officers be issued with instructions which make clear that it is not acceptable to use such methods.**

15. Naturally, one of the most effective means of preventing ill-treatment by police officers lies in the diligent examination of complaints of such treatment and, where appropriate, the imposition of suitable disciplinary and criminal penalties.

In this respect, **the CPT would like to receive the following information for 1995 and 1996:**

- **the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police.**

16. Finally, reference should be made to allegations received from representatives of non-governmental organisations about the inappropriate use of police dogs. Photographs seen by the delegation would suggest that, in some cases, this has led to apprehended persons being bitten by police dogs on the arms, legs and - in one case - on the genitals.

The Danish authorities themselves consider that the guidance on this subject set out in the relevant section of the National Police Commissioner's Code of Practice<sup>5</sup> is inadequate, and the Minister of Justice has requested the National Commissioner to draw up a new Circular by the end of 1996.

**The CPT would like to receive a copy of the National Police Commissioner's new Circular on the use of police dogs.**

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<sup>5</sup> cf. National Police Commissioner's Code of Practice II, No. 3 of 1991.

### 3. Conditions of detention in police establishments

#### a. introduction

17. It should be recalled that all police cells should be clean, be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

#### b. situation in the establishments visited

18. With few exceptions, conditions in the police establishments visited were found to be broadly in conformity with the criteria outlined in paragraph 17, above. Cells were of a reasonable size; they were appropriately lit and ventilated. In general, detainees were granted access to adequate sanitary facilities.

However, certain aspects of the conditions of detention at Police Station No 1 in Copenhagen, and at the Police Headquarters in Århus, Esbjerg and Horsens were a cause for concern.

19. Police Station No 1 in Copenhagen provided modern and clean conditions of detention; however, detainees' access to toilet facilities was rendered problematic by the practice of requiring the presence of two officers when detainees left their cells in order to comply with the needs of nature. Police officers present told the CPT's delegation this could cause delays in responding to detainees' requests to use a lavatory. Indeed, on occasion, it was apparently necessary for a patrol to be called from the street in order to provide such an escort for a detainee. One detainee held at Station No 1 at the time of the visit complained that she had been denied access to a lavatory for several hours, despite her repeated requests.

20. The basement cells and the waiting rooms on the ground floor at Århus Police Headquarters were equipped to a good standard; however, the Criminal Investigation Department waiting rooms on the 3rd floor were found to be in a poorer state of repair.

Many of the cells and waiting rooms at this establishment were dirty and, in some of them, the walls were spattered with blood and/or excrement. Moreover, the mattresses provided to detained persons were in a filthy condition.

21. The cellular accommodation at Esbjerg Police Headquarters was modern and well-equipped. However, on the ground floor, the CPT's delegation was shown four small (2.8 m<sup>2</sup>) windowless waiting rooms resembling lockers. A solid block provided a surface on which to sit and the rooms were equipped with artificial lighting and an air extraction system. Further, an examination of the relevant custody registers revealed that they were rarely used for periods of longer than 2 hours at a time.

Nevertheless, by virtue of their design they had a claustrophobic aspect, which rendered them scarcely suitable for use as a detention facility. The CPT's concerns are all the greater given that the police were authorised to place two detainees in such a waiting room.

The CPT's delegation also noted that detainees' access to toilet facilities at Esbjerg Police Headquarters was hampered in a similar fashion as had been observed at Police Station No 1 in Copenhagen (cf. paragraph 19, above).

22. The detention facilities at Horsens Police Headquarters comprised four adequately-equipped cells and five waiting rooms. Two of those waiting rooms were small (2.8 m<sup>2</sup>), windowless and unventilated, rendering them similarly claustrophobic to those seen at Esbjerg Police Headquarters and of equally questionable suitability as places of detention.

23. More generally, the delegation observed that arrangements for the distribution of food remained problematic (cf. paragraph 122 of document CPT/Inf (91) 12). Although at least one of the establishments visited (Police Station No. 3 in Copenhagen) provided food to detainees held for longer than four hours, in other police stations there were still no formal arrangements for the distribution of food. In consequence, some detained persons received little or nothing to eat during their time in police custody. As an example, at the Mobile Squad in Copenhagen, the delegation found that a detainee who had been held from 2.20 pm until 9 pm on 1 October 1996 had not been provided with anything to eat during that period.

24. **The CPT recommends that the Danish authorities:**

- **review conditions of detention in the above-mentioned police establishments, in the light of the remarks set out in paragraphs 19 to 23;**
- **take appropriate steps to ensure that conditions of detention in all police establishments in Denmark meet the criteria indicated in paragraph 17.**

#### **4. Safeguards against ill-treatment of persons detained by the police**

##### a. introduction

25. The CPT wishes to recall the particular importance which it attaches to three rights for persons detained by the police:

- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons in detention, which should apply from the very outset of custody (i.e. from the moment when those concerned are obliged to remain with the police).

26. Moreover, it considers it equally fundamental that detained persons be informed without delay of all their rights, including those mentioned above.

##### b. notification of custody

27. In the report drawn up after its first periodic visit to Denmark (cf. document CPT/Inf (91) 12, paragraph 126), the CPT recommended that persons arrested by the police have the right to inform immediately their next of kin or another third party of their arrest, and that any possibilities for the police exceptionally to delay or refuse contact with a third person be clearly circumscribed and made subject to appropriate safeguards (e.g. such delay or refusal to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor).

The interim report submitted by the Danish authorities stated, inter alia, that paragraph 758 of the Administration of Justice Act already makes adequate provision for this right, but that the Ministry of Justice was nonetheless prepared to consider issuing instructions on this subject (cf. pages 53 to 55 of document CPT/Inf (96) 14). The Danish authorities reiterated this position in their follow-up report (cf. page 131 of document CPT/Inf (96) 14).

By the time of the CPT's second periodic visit, such instructions to the police and public prosecutors had been set out in the above-mentioned draft Circular on safeguards for detained persons.

28. In practice, the CPT's delegation found that the extent to which detained persons were placed in a position to notify a close relative or third party of their situation varied from one police station to another.

For example, at Police Station No 1 in Copenhagen and at Århus Police Headquarters, police officers told the delegation that the decision to allow notification of custody lay within their sole discretion. At Police Station No 3 in Copenhagen, a police officer asserted that persons suspected of having committed a criminal offence would normally not be permitted to exercise this possibility because of fear of collusion, but that if the family of a detained person enquired about his/her whereabouts, the police would confirm the fact (but not necessarily the grounds) of their detention.

The delegation's impression that the police enjoyed a very wide margin of discretion in evaluating whether and how to enable detained persons to notify someone of their detention was supported by allegations made by both persons in police custody and prisoners, to the effect that notification of custody had on occasion been refused or significantly delayed.

29. The above-mentioned draft Circular provides that: "...the police is to permit a detainee - without undue delay - to inform his/her relatives or other relevant persons, such as employers, of the arrest, unless the circumstances of the case give a specific reason to believe that in so doing the detainee would make the investigation of the case more difficult ... normally a detainee is to be granted the possibility of giving such information when brought to a police station."

The production of such instructions is a welcome development. However, in its present form the draft Circular fails to make sufficiently clear to police officers that there should be a positive presumption in favour of granting the above-mentioned right to detained persons; in other words, granting the right should be the rule, withholding it, the exception. Further, the CPT wishes to reiterate that any possibility exceptionally to delay the exercise of this right should be clearly circumscribed; in this respect, the CPT considers that the concept of "making the investigation of the case more difficult" might usefully be defined more closely. Moreover, the possibility to delay the exercise of this right should be made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons for the decision, and the authorisation of the prosecuting authorities or of a judge to be sought).

**The CPT recommends that the relevant terms of the draft Circular on safeguards be re-drawn accordingly.**

c. access to a lawyer

30. In the context of its ongoing dialogue with the Danish authorities, the CPT has noted that the right of access to a lawyer becomes operative as from the moment when an arrested person is questioned for the first time by the police. There are no provisions in the Administration of Justice Act or any regulations guaranteeing a right of access to a lawyer prior to questioning; although, according to the "*Kommenteret Retsplejelov*"<sup>6</sup>, a request by an arrested person to consult a lawyer before questioning "normally has to be respected."

For its part, the CPT has stressed that, however short the period of police custody may be, it is during the period immediately following a person's deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest. The Committee therefore considers that the right for persons in custody to have access to a lawyer from the very outset of their custody - and not only from when they are (formally) interviewed by the police - is of the utmost importance.

The Danish authorities have in turn accepted that "in certain cases there may be a need for arrested persons to have access to a lawyer immediately following the arrest", and undertaken to include instructions on this subject in the draft Circular on safeguards (cf. pages 178 to 179 of document CPT/Inf (96) 14).

31. During the second periodic visit, the CPT's delegation found that, as for the right to notify a third party, the effectiveness in practice of the right of access to a lawyer varied from one police establishment to another.

At the Mobile Squad in Copenhagen, a senior officer told the delegation that, in cases where the person detained is suspected of having committed a drug offence, he/she will only be allowed to have a lawyer present upon prior approval of the "N" Department (the Drugs Squad) at Copenhagen Police Headquarters. Further, at a number of other police stations visited, police officers asserted that the right of access to a lawyer only applied to persons who had formally been charged with an offence.

32. The CPT was interested to note, in this respect, that the draft Circular on safeguards provides as follows:

"...the police must permit a detainee - without undue delay - to contact a lawyer who fulfils the conditions for serving as defence counsel in the case, cf. Section 66 of the Administration of Justice Act. As can be seen from the rules in that Section, the police may in certain cases deny the detainee the possibility to contact a specific lawyer, including in cases in which there is a warranted risk that the lawyer will prevent or work against the case being solved. If the detainee maintains his/her wish to have the lawyer in question as his/her personally selected or assigned counsel, this question must be brought before the court, cf. paragraphs 730 (3) and 733 (2) of the Administration of Justice Act."

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<sup>6</sup> The Annotated Edition of the Administration of Justice Act, ed. 1989, Vol.4, Note 14.

33. At first sight, this form of words would appear to fall short of meeting the Committee's concerns. In particular, the draft Circular does not make clear that persons detained by the police are to enjoy the right of access to a lawyer as from the outset of their custody. Further, although the interests of justice may exceptionally render it necessary to delay access by detained persons to a particular lawyer of their choice for a certain period, this should not result in the right of access to a lawyer being denied until the person concerned appears in court. In such cases, access to another independent lawyer who can be trusted not to jeopardise the legitimate interests of the police investigation should be arranged without delay.

As regards the specific content of the right to have access to a lawyer, it must include the right to talk to him in private. The person concerned should also be entitled to have a lawyer present during any interrogation conducted by the police (whether this be during or after the initial period of police custody). Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives. Provision might also be made for the replacement of a lawyer who impedes the proper conduct of an interrogation, though any such possibility should be closely circumscribed and made subject to appropriate safeguards.

**The CPT recommends that the terms of the draft Circular on safeguards regarding access to a lawyer be re-drawn in the light of these remarks.**

34. Lastly, if the right of access to a lawyer is to be fully effective in practice, appropriate provision should be made for those who are not in a position to pay for legal services. In Denmark, persons who lack the means to pay for legal services may be assisted by a lawyer appointed by the State and paid from the public purse. However, in terms of Section 91 of the Administration of Justice Act, an accused person who is found guilty may be called upon to refund the costs of his/her defence to the State.

The CPT's delegation heard a number of allegations to the effect that the existence of this possibility (which is apparently rarely invoked in practice) is sometimes used by police officers to dissuade detainees from contacting a lawyer. Most graphically, a senior officer at the Mobile Squad in Copenhagen told the delegation that if persons who were not suspected of serious offences requested a lawyer, they would be told: "well, you can have one but if you lose your case, you'll have to foot the bill". This, he added, usually led such persons to withdraw their request.

35. In this respect, the above-mentioned draft Circular on safeguards provides that:

"As has hitherto been the case, the police must - when informing the detainee of his/her right to contact a lawyer - inform the detainee that if he/she is found guilty, he/she will have to reimburse the amount paid by the authorities to the lawyer, cf. paragraph 2 (2) of Ministerial Order No 467 of 26 September 1978. Naturally, in this situation the police should not seek to influence the detainee's assessment of his/her need for legal assistance."

**In the view of the CPT, the very reference to Ministerial Order No. 467 could well lead to detained persons being dissuaded from seeking to exercise their right of access to a lawyer.**

d. access to a doctor

36. In the report drawn up after its first periodic visit to Denmark (cf. document CPT/Inf (91) 12, paragraph 128), the CPT recommended that the possibility for an arrested person to have access to a doctor (including one of his own choice) be expressly provided for in respect of all stages of police custody. The interim report submitted by the Danish authorities stated that adequate provision on access to medical assistance for detained persons was already made in the Administration of Justice Act (cf. page 55 of document CPT/Inf (16) 14).

Nevertheless, in response to subsequent letters from the President of the CPT, the Ministry of Justice indicated that it was prepared to incorporate more detailed regulations concerning arrested persons' access to a doctor of their own choice in the aforementioned draft Circular on safeguards.

37. During the 1996 visit to Denmark, the CPT's delegation was able to confirm that access to a doctor for persons in police custody was guaranteed. It remained the dominant pattern that a duty doctor from the local hospital was called if a detained person appeared to require medical attention, or if a detainee requested medical assistance.

However, as regards access to a doctor of a detainee's own choice, it was apparent that the police lacked clear guidance on this subject, which again led to a variance in approach from one police establishment to another.

38. The above-mentioned draft Circular on safeguards provides as follows:

"It must be considered self-evident that a person under arrest is given medical treatment in all cases where this is needed - either by being taken to the emergency ward of a hospital or to the emergency medical service unit (*lægevagten*) or by calling in a doctor to the police station, the choice depending on what seems most appropriate and responsible in the given situation.

In cases when a detainee wishes that a doctor be called, the police must - without undue delay - permit the detainee to have access to a doctor. The detainee's wish to contact a specific doctor is to be accommodated to the extent that this is practicable and reasonable."

39. The CPT welcomes the provisions of the draft Circular on access to a doctor and, in particular, its recognition of the importance of providing access to a doctor of a detainee's own choice. However, **the Committee would like to receive clarification of the circumstances in which police officers would be entitled to conclude that it is not "practicable and reasonable" to respect a detainee's wish to contact a doctor of his/her own choice.**



Further, the CPT invites the Danish authorities to consider enlarging the terms of the draft Circular, in order formally to provide that:

- all medical examinations of persons in custody are to be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of sight of police officers;
- the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the person in custody and his lawyer.

e. information on rights

40. The CPT has already stressed the importance which it attaches to people detained by the police being expressly informed without delay of all their rights, including those referred to in paragraph 25 (cf. paragraph 26). Regrettably, the aforementioned draft Circular on safeguards fails to make clear that it is incumbent upon the police to ensure that this is the case. This lacuna is all the more significant given the inconsistencies in police practice observed during the second periodic visit (cf. paragraphs 28, 31, 34 and 37 above). Moreover, the draft Circular makes no provision for information on rights to be given to detained persons in writing.

41. In order to ensure that persons detained by the police in Denmark are fully informed of their rights, **the CPT recommends that a form setting out those rights in a straightforward manner be given systematically to persons arrested by the police, at the very outset of their custody. The form should be available in different languages and the person concerned should be asked to certify that he has been informed of his rights.**

f. conduct of interrogations

42. In the report on its first periodic visit to Denmark (cf. document CPT/Inf (91) 12, paragraph 130), the CPT recommended that the Danish authorities draw up a code of practice on police interrogations, addressing a number of issues concerning the questioning of detained persons. The Danish authorities responded that sufficient guidance on this subject was already provided by paragraph 752 of the Administration of Justice Act and that, in certain circumstances, the adoption of more rigid rules could prove detrimental to both the police and to detained persons.

The CPT has pursued this question with the Danish authorities and, during the second periodic visit, those authorities indicated that they may be prepared to incorporate additional guidance on this subject in the relevant police training programmes. The CPT welcomes the idea of enhancing police training on the conduct of interrogations and **would like to be informed of any measures taken in this respect.**

Nevertheless, although the Committee recognises that the art of questioning criminal suspects will always be based in large measure on experience, it considers that formal guidelines should exist on a number of specific points. The existence of such guidelines will, inter alia, help to underpin the lessons taught during police training.

**43. The CPT therefore reiterates its recommendation that the Danish authorities draw up a code of practice for police interrogations.**

This code should deal, *inter alia*, with the following: the systematic informing of the detainee of the identity (name and/or number) of those present at the interrogation; the permissible length of an interrogation; rest periods between interrogations and breaks during an interrogation; places in which interrogations may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. The code should also provide for a systematic record to be kept of the times at which interrogations start and end, the persons present during each interrogation and any request made by the detainee during the interrogation.

The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards.

g. complaints and inspection procedures

44. Since 1 January 1996, the investigation of all complaints about the behaviour of police officers on duty has become the responsibility of district public prosecutors. Their investigative powers in respect of such cases are analogous to those which they enjoy in "ordinary" criminal cases.

After completing an initial investigation, the public prosecutor draws up a report setting out both findings in fact and preliminary conclusions, which is sent to the District Police Complaints Board (*Politiklagenævnet*)<sup>7</sup>. The Board is invited to express an opinion on the prosecutor's report; however, such opinions are not binding on prosecutors. The complainant, the police officer(s) concerned and the Board may appeal against the public prosecutor's decision to the Chief Public Prosecutor within four weeks of the decision.

The CPT welcomes the introduction of this new police complaints procedure, which has the capacity to process complaints in a manner which is demonstrably independent and impartial. **It would like to receive more information about the operation of this system in practice and, in particular, a copy of the first annual report on complaints against the police, which the Chief Public Prosecutor is to present to the Danish Parliament by the beginning of 1997.**

45. The Committee also considers that regular and unannounced inspection visits by an independent person or body to places where persons are detained by the police can make a significant contribution to the prevention of ill-treatment.

Accordingly, **the CPT would like to be informed of whether such an independent authority exists in Denmark.**

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<sup>7</sup> Members of these Boards (each of which consist of a legally-qualified chairperson and two laypersons) are directly appointed by the Minister of Justice for a term of 4 years.

## **B. Prisons**

### **1. Introduction**

46. In the course of its second periodic visit to Denmark, the CPT's delegation visited the Police Headquarters Prison and the Western Prison in Copenhagen, the Herstedvester Institution, Esbjerg Local Jail (*Arresthuset*) and Horsens State Prison.

The Police Headquarters Prison, the Western Prison and the Herstedvester Institution received follow-up visits (those establishments having been visited during the first periodic visit in 1990), while Esbjerg Local Jail and Horsens State Prison were visited for the first time.

### **2. Torture and other forms of ill-treatment**

47. As had been the case in 1990, the delegation heard no allegations of torture of prisoners by prison staff in prison establishments in Denmark and gathered no other evidence of the existence of such treatment. Further, with the exception of one incident concerning the Sandholm Institution for Detained Asylum Seekers, the delegation heard no allegations of other forms of physical ill-treatment of inmates by prison staff in Denmark.

48. The above-mentioned exception concerned a person met by the delegation at the Western Prison in Copenhagen, who alleged that he had been ill-treated by prison officers at the Sandholm Institution on 15 March 1996. In particular, he complained that, following an altercation with prison officers, he had been taken under restraint to his cell, where he had been forced onto his bed, his arms had been twisted behind him and he had been struck by a prison officer on his right upper arm. Records seen by the delegation indicated that he had been taken to a local hospital for treatment, where an X-Ray showed that he had sustained a spiral fracture of the distal end of the right humerus, with fragmentation of the bone. A medical examination by one of the delegation's doctors revealed that - some seven months after the alleged incident - this fracture had not healed; there was a major deformity, pain and severely-impaired function of the right upper limb.

At the end of the visit, the CPT's delegation raised this case with the Danish authorities who, by letter of 25 November 1996, indicated that an internal management investigation carried out at the Sandholm Institution following the incident "came to the conclusion that in this specific situation no more force had been employed than necessary in the light of the situation and that the arm twisting hold on both arms had been performed correctly. This episode has not given rise to any disciplinary reactions of any kind whatsoever towards the staff, but must be considered a very regrettable incident".

The Committee is unconvinced by this response to the aforementioned incident. Considering the medical evidence alone, it is improbable that an arm restraint hold, if correctly performed, could have caused injuries of the nature described above. Such injuries are more consistent with the prisoner's allegations about the incident. The CPT also considers that it is regrettable that only an internal investigation was conducted into the events concerned.

49. **The CPT recommends that the Danish authorities carry out an external investigation into the above-mentioned incident.**

Further, it wishes to recall that the prohibition of striking persons who have been brought under control applies equally in the penal as in the police sphere (cf. paragraph 12, above).

50. In order to assist it to form a nationwide view, **the CPT would like to receive the following information in respect of 1995 and 1996:**

- **the number of complaints of ill-treatment lodged against prison officers and the number of criminal/disciplinary proceedings initiated as a result of such complaints;**
- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by prison officers.**

51. The CPT's mandate is not limited to ill-treatment of persons deprived of their liberty which is inflicted or authorised by prison staff. Naturally, the Committee pays close attention to such ill-treatment; nevertheless, it is also very concerned when it discovers a prison culture which is conducive to inter-prisoner intimidation/violence.

At the **Western Prison** and **Horsens State Prison**, the delegation was informed that incidents of inter-prisoner intimidation/violence were a feature of life in those establishments. At the former establishment, the Governor told the delegation that the prison had recently been plagued by a series of inter-prisoner attacks on a scale, and of a ferocity, which he had never previously encountered. At the latter, the Governor confirmed that up to five inmates had required outpatient treatment in 1996 as a result of inter-prisoner violence; the injuries which they had sustained included a fractured jaw-bone and a fractured finger.

At both prisons, approximately 30% of the inmate population were either in voluntary solitary confinement or had requested to be placed in solitary confinement. The regimes offered to such prisoners were much more restrictive than those to be found on normal location. Nevertheless, the delegation's interviews with staff and inmates indicated that, for a variety of reasons (including fear of "strong" inmates and/or inability to pay drug-related debts), this was considered to be an attractive option by almost one third of inmates at each prison. Indeed, at Horsens State Prison the delegation was told that there was a "waiting list" of inmates who had made such requests.

52. The Danish authorities are well aware of this problem and fully recognise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might cause them harm. Nevertheless, the CPT has certain reservations about the approach which has been adopted to tackling inter-prisoner violence at these two prisons. At the Western Prison, the fact that many inter-prisoner attacks had taken place during unsupervised association had led the Governor to suspend this form of association for all prisoners and to close the common rooms which had been set aside for that purpose. At Horsens State Prison, various unsuccessful attempts had been made to address this problem (e.g. by segregating/relocating certain prisoners), but, at the time of the visit, senior staff asserted that they felt "helpless" to resolve it. Clearly, neither establishment had a coherent strategy to tackle the underlying causes of inter-prisoner intimidation/violence.

53. The CPT considers that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. In particular, staff should be encouraged more closely to supervise the activities of prisoners. It follows that a balance must be struck between prisoners' privacy and their supervision, and between prisoner choice and regime restrictions. Far from impinging upon the quality of a regime which an establishment is able to offer, such an approach can serve to foster a safer custodial environment.

When incidents of inter-prisoner intimidation/violence do occur, staff must be both resolved and properly trained to intervene. Further, in the aftermath of such events, care will be required to ensure that measures directed at curtailing the activities of intimidating/violent inmates do not have an adverse effect upon the prison population at large. In this respect, the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

Finally, prison staff are unlikely to be able to protect prisoners if they fear for their own safety or if they lack effective management support. These issues should be openly addressed in initial, in-service and ongoing training programmes for staff of all grades.

**The CPT recommends that the Danish authorities carry out a thorough investigation into the nature and scale of the problem of inter-prisoner violence at the Western Prison and Horsens State Prison. More generally, it invites the Danish authorities to devise a national strategy to address the problem of inter-prisoner violence, in the light of the CPT's remarks.**

### **3. Solitary confinement of remand prisoners by court order**

54. In the course of its ongoing dialogue with the Danish authorities, the CPT has stressed that all forms of solitary confinement without appropriate mental and physical stimulation are likely in the long term to have damaging effects, resulting in deterioration of mental faculties and social abilities. It has paid particular attention to the solitary confinement of remand prisoners by court order, which can continue for extended periods.

55. The Danish authorities have long recognised the importance of this subject and, in 1990, the Minister of Justice commissioned a research project to examine "any possible harmful effects of being remanded in custody in solitary confinement". The results of that research were published, in a report entitled "Remand in Custody and Mental Health", in May 1994.

The research team found that: "...remand in custody in solitary confinement versus non-solitary confinement involves the risk of harmful effects on mental health" and that "...there is a greater probability that those in solitary confinement develop mental problems and are transferred to prison hospitals for mental reasons than those who are not placed in solitary confinement".<sup>8</sup> However, researchers found no proven link between the length of judicially-ordered solitary confinement and prisoners' mental health. The report concludes that: "... the harmful effects of solitary confinement are not in general such as to result in abnormalities in the cognitive functions, e.g. concentration and memory"<sup>9</sup>.

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<sup>8</sup> cf. page 164 of document CPT/Inf (96) 14.

<sup>9</sup> cf. page 165 of document CPT/Inf (96) 14.

The Criminal Justice Review Committee is currently examining the findings of "Remand in Custody and Mental Health", with a view to re-assessing the rules governing placement in judicially-ordered solitary confinement. In addition, the same research team is producing a follow-up study, which is to be published in the form of a supplementary report.

56. The CPT welcomes the fact that the mental health of prisoners in judicially-ordered solitary confinement has been the subject of a study. However, it feels bound to point out that, during its 1996 visit, a considerable number of doctors, lawyers, prison staff and other persons who have frequent contact with such inmates expressed considerable surprise at the study's principal conclusion. In their experience, prisoners subjected to lengthy periods of judicially-ordered solitary confinement frequently exhibited lapses in concentration, memory loss and impaired social skills.

These observations were borne out by the Committee's own findings during its second periodic visit. Many prisoners subject to judicially-ordered solitary confinement complained of symptoms including anxiety, depression, inability to concentrate, irregular sleeping patterns, nausea and persistent headaches. In one particular case, the delegation's psychiatric expert was of the opinion that symptoms such as impairment of concentration, depressive mood and suicidal thoughts could be attributed to the inmate's lengthy placement in solitary confinement.

In short, notwithstanding the principal conclusion of "Remand in Custody and Mental Health", the CPT considers that there remain serious grounds for concern about the effects upon remand prisoners' mental health of being placed in judicially-ordered solitary confinement for prolonged periods.

57. In addition to stressing that all forms of solitary confinement should be as short as possible, the CPT's 1991 report recommended that the Danish authorities take steps to ensure that remand prisoners were only placed in solitary confinement in exceptional circumstances which were strictly limited to the actual requirements of the case. It also recommended that there be an effective judicial review of placements in solitary confinement and that, where a placement was prolonged, the reasons for such prolongation be set out in writing (cf. paragraph 29 of document CPT/Inf (91) 12).

In their response, the Danish authorities asserted that Danish law was already in accordance with these recommendations and cited a steady fall in the number of remand prisoners being placed in judicially-ordered solitary confinement.

58. The CPT welcomes the above-mentioned fall. However, the information gathered during the second periodic visit would suggest that - at least in respect of certain types of cases (serious drugs offences, crimes of violence etc.) - the balance between the legitimate requirements of a criminal investigation and the potentially harmful effects of imposing solitary confinement is still not being struck in an appropriate way.

As an example, senior police officers, prosecutors and judges with whom the delegation spoke agreed that it would be extremely unusual were solitary confinement not to be sought (and granted) in a case brought under Section 191 of the Administration of Justice Act (which deals with serious drugs offences). It is also noteworthy that a detailed examination of the court transcript of a randomly-selected Section 191 case showed that no specific reasons had been given by the judge for imposing solitary confinement; instead, he had simply cited the statute which authorised him to grant the prosecutor's request.

Furthermore, although it is true that the statistical information which has been supplied by the Danish authorities shows a downward trend in the number of placements in solitary confinement, it also indicates that the average length of solitary confinement has increased. Indeed, in the course of the 1996 visit, the CPT's delegation met a number of prisoners who had been subject to judicially-ordered solitary confinement for long periods of time (one for ten months, two for six months and six for three months or more).

59. In the light of the information set out above, the CPT considers that further action is required to ensure that the safeguards in Danish law concerning the placement of remand prisoners in solitary confinement are rendered fully effective in practice. **The CPT recommends that steps be taken to ensure that:**

- **prosecutors are reminded that they should only seek a placement in solitary confinement when this is strictly necessary in the interests of a particular criminal investigation;**
- **on every occasion when the question of whether to impose or prolong solitary confinement is raised before a court, the reasoned grounds for the decision which results are recorded in writing;**
- **prisoners are systematically informed in straightforward language of the reasons for their placement in judicially-ordered solitary confinement;**
- **in the context of each periodic review of the necessity to continue remand in custody, the necessity to continue a placement in solitary confinement is fully considered as a separate issue, bearing in mind the general principle that all placements in solitary confinement should be as short as possible.**

**The Committee also invites the Danish authorities to consider introducing a maximum limit on the total period for which a remand prisoner may be placed in solitary confinement.**

60. The effect upon remand prisoners of being placed in judicially-ordered solitary confinement can be exacerbated by the imposition of prohibitions / restrictions upon their letters and visits. The imposition of such restrictions lies within the sole discretion of the police (although a prisoner may appeal to a court against the imposition of restrictions). In the course of its second visit, the delegation found that the police rarely if ever sought to prohibit letters or visits; however, it was common for remand prisoners' letters to be monitored and their visits supervised.

In its report on the first visit, the CPT recommended that the police be given clear instructions on the circumstances in which such prohibitions / restrictions might be imposed and required to state the reasons in writing for any such measures. This recommendation has not been implemented by the Danish authorities, who consider that the Administration of Justice Act already provides sufficient safeguards in this respect.

In the view of the CPT, the current system of police-imposed restrictions upon letters and visits still does not adequately ensure that the measures adopted in a given case will be strictly proportionate to the needs of the criminal investigation involved. Accordingly, **the Committee recommends that the Danish authorities take steps to implement its 1991 recommendation on this subject without further delay. The CPT also recommends that, in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters be considered as a separate issue.**

61. As regards the question of activities for remand prisoners placed in judicially-ordered solitary confinement, the Committee was pleased to note that the Ministry of Justice fully agrees with the CPT's view that persons in solitary confinement should be provided with access to purposeful activities and appropriate human contact in order to counteract the effects of being placed in solitary confinement (cf. page 165 of document CPT/Inf (96) 14).

During the second periodic visit, the delegation noted that efforts were being made to achieve this objective in the establishments visited. **The CPT recommends that the Danish authorities pursue their efforts in this respect.**

#### **4. Conditions of detention in general**

##### **a. the Police Headquarters Prison in Copenhagen**

62. Of the three prisons visited by the CPT in 1990, the Police Headquarters Prison had undergone the most radical change. The former female prison had been partially converted into a radio station. As a result, only one detention facility remained in use on the Police Headquarters premises. It was being used for short stays of persons about to appear in the adjacent court or awaiting questioning by the police. Such persons were brought from other prisons in the morning and returned to prison later the same day. On the day of the delegation's visit, four persons had arrived in the morning, and by 3 pm all of them had been taken to other prisons.

63. The detention facility comprised a total of 40 single cells (of which 30 were in use) on four levels, which offered adequate material conditions for stays of up to eight hours. The cells measured 8.5 m<sup>2</sup> and were well-lit and ventilated. Each cell was equipped with a bed, a table, a chair or stool and a wash-basin. A toilet was located at the end of every floor. It should be added that the premises were very clean and in a good state of repair. As regards food arrangements, at lunch inmates were offered a meal prepared at the Western Prison; special dietary requirements were being catered for.



b. the Western Prison in Copenhagen

*i. introduction*

64. Since the CPT's first visit to the Western Prison in 1990, the establishment has become the reception facility for all of the Copenhagen Prisons (a role previously filled by the Police Headquarters Prison, cf. paragraph 62, above); the Western Prison now has a turnover of between 8,000 and 10,000 inmates per year.

With an official capacity of 439, on the first day of the 1996 visit the establishment was holding 426 inmates.<sup>10</sup>

*ii. material conditions of detention*

65. The basic characteristics of the cells at the Western Prison were described in the CPT's report on its first periodic visit (cf. paragraph 40 of document CPT/Inf (91) 12). A considerable amount of renovation work has been carried out at the establishment since 1990. All of the cells in the prison's Eastern Wing were renovated between 1990 and 1992. Renovation of the Southern Wing began in 1993 and is due to be completed (with the installation of new cell windows and re-painting of the cells) during 1997. Nevertheless, at the time of the second periodic visit, a number of the cells seen by the CPT's delegation (especially in the Southern Wing) were dilapidated and in poor decorative order.

Inevitably, the very high turnover of inmates has a negative impact upon the establishment's general state of repair. This in turn means that particular attention must be paid to maintaining the cellular accommodation in a decent condition.

**The CPT recommends that a very high priority be given to completing the scheduled renovation work at the Western Prison and that steps be taken to ensure that the programme of ongoing maintenance of the cells is more closely geared to the degree of wear-and-tear to which they are now subjected.**

*iii. regime*

66. The CPT was concerned to note that, at the time of its delegation's 1996 visit, the regime offered to inmates at the Western Prison was less developed than had been the case in 1990. In particular, following a recent spate of inter-prisoner attacks (cf. paragraphs 51 to 53 above), the Governor had suspended unsupervised association and closed the on-wing common rooms which had been set aside for that purpose. As an alternative, prisoners were being offered the opportunity to apply for association periods with one other prisoner in a cell.

The number of prisoners participating in education, work and sports activities also left something to be desired.

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<sup>10</sup> As compared to some 403 (with an official capacity of 430) at the time of the first periodic visit.

67. The CPT accepts that it is not an easy task to organise meaningful regime activities in a remand prison with a turnover of up to 10,000 inmates per year. That task is even more difficult in an establishment - such as the Western Prison - which is also plagued by the problem of inter-prisoner intimidation/violence.

However, the measures necessary to protect prisoners who are genuinely vulnerable should not be such as to erode the quality of the regime offered to all inmates. In the view of the CPT, whilst the suspension of unsupervised association at the Western Prison may serve to prevent the most obvious forms of inter-prisoner intimidation/violence, it is unlikely to prove other than a short-term palliative for that problem. Such a measure could easily lead to a more widespread degeneration of the atmosphere within the establishment. Effective action designed to tackle inter-prisoner violence requires enhanced staff supervision of regime activities such as association, rather than their wholesale withdrawal.

More generally, the Committee wishes to recall that the overarching objective should be to ensure that all prisoners - including those on remand - can spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (group association activities, education, sport, work with vocational value).

**It recommends that the Danish authorities take steps to enhance the regime offered to prisoners at the Western Prison in Copenhagen in the light of the above remarks.**

68. The CPT's delegation was also concerned to find that there had been no improvement in the outdoor exercise areas for prisoners subject to solitary confinement since its 1990 visit (cf. paragraph 47 of document CPT/Inf (91) 12). The facilities concerned still failed to offer prisoners sufficient space within which to exert themselves physically.

The Danish authorities have themselves recognised that there is a need to improve outdoor exercise facilities for prisoners in solitary confinement at the Western Prison. However, they have advanced that "because of the limited space available in relation to the number of prisoners in solitary confinement" it has not yet been possible to improve those facilities (cf. page 169 of document CPT/Inf (96) 14).

The CPT wishes to reiterate that all prisoners in solitary confinement at the Western Prison should benefit from proper, daily, open-air exercise. **The CPT recommends that the Danish authorities take appropriate steps in order to meet this requirement;** a measure which should be possible given the relatively generous space available within the Western Prison's secure perimeter.

c. the Herstedvester Institution

i. *introduction*

69. The Herstedvester Institution is essentially a closed prison "in which prisoners who do not suffer from any mental disease but have psychiatric problems in other respects are offered psychiatric/psychological treatment".<sup>11</sup> Further, it has the status of an "observation ward" for acute cases, admitting for observation and treatment remand and sentenced prisoners from the whole Danish prison system who become psychotic and, for one reason or another, cannot immediately be transferred to an ordinary psychiatric ward. Yet another function of Herstedvester is to receive Greenlanders sentenced under the Greenlandic Criminal Code. The establishment also has a small unit for women with six places. Finally, former prisoners are occasionally accommodated on a voluntary basis at the institution and treated exclusively as civil psychiatric patients.

With an official capacity of 130 (not counting fifteen places in the infirmary and the solitary confinement unit), on 26 September 1996 Herstedvester was holding 118 persons, of which 112 men - 87 sentenced, 18 in preventive detention for indeterminate periods ("*forvaring*"), 1 on remand and 6 Greenlanders in preventive detention - and 6 women, all sentenced. A high proportion of the inmates were serving long-term sentences of eight years or more, and seven male prisoners had been sentenced to life imprisonment.

ii. *material conditions of detention*

70. Since the CPT's first visit, there had been practically no changes to the material environment at Herstedvester, save for the closing down of the special ward for drug addicts. As in 1990, conditions of detention were found to be adequate. All cells seen by the delegation were designed for single occupancy; they were of a good size (some 8 m<sup>2</sup> or more), well-lit and ventilated, and appropriately equipped (bed, cupboard, table, chairs, washbasin, occasionally a television). Toilet and shower facilities were situated on each ward, and inmates had ready access to them at all times.

Overall, the establishment was in a satisfactory state of repair and cleanliness, though some of the cells in the psychiatric ward were in marked need of refurbishment - a shortcoming already observed by the CPT as early as 1990. **The CPT recommends that steps be taken to refurbish those cells.**

71. Most of the inmates cooked for themselves in well-equipped communal kitchens located on each ward (for which purpose they received a daily allowance of 40 DK to buy food). However, those accommodated in the psychiatric ward, the solitary confinement ward and the observation cells received food which was brought from another prison. Some complaints were heard about the quality of this food; **the CPT would like to receive the comments of the Danish authorities on this subject.**

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<sup>11</sup> cf. page 44 of document CPT/Inf (96) 14

*iii. regime*

72. Although the regime varied according to the ward in which prisoners were accommodated, on the whole the range of activities offered at Herstedvester can be described as very good.

All prisoners were guaranteed at least one hour of outdoor exercise every day, which took place in a spacious yard. Further, there were good facilities for various sports (football, weight-lifting, table tennis, etc.) and prisoners appeared to be making regular use of them.

As regards work and other activities, Herstedvester was in a position to provide purposeful occupation to all prisoners: a total of 125 work/education places were available, of which 60 in workshops (assembly, envelope making, bookbinding, carpentry), 35 in building and maintenance work, and 30 in the school, therapy, library and production school. An average of 15 prisoners per day attended occupational therapy.

Most prisoners worked from 7.30 am to 3 pm. Subsequently, their time could be filled by sport, hobbies, evening classes, association in the common rooms, cooking for themselves, reading, watching television, etc. Cell doors remained unlocked until 9.30 pm, and inmates could move freely within their ward until that time.

73. The regime applied to inmates in the psychiatric ward was adapted to their special needs. Prisoners were placed there for their own protection or because they did not function well in a "normal" ward. During their stay at the psychiatric ward they were not expected to attend the workshops and were involved instead in occupational therapy.

74. Herstedvester also operated a semi-open section for eight prisoners, which functioned as a "staff-free area". In order to become eligible for admission to that section, inmates had to fulfil a number of conditions (e.g. to be socially adaptable, to work, not to use drugs). Doors within the semi-open section remained unlocked at all times and prisoners enjoyed additional access to sports facilities.

75. Finally, it should be noted that female prisoners participated together with male prisoners in all activities (work, education, leisure time activities); special care was being taken by staff to safeguard their physical and psychological integrity.

d. Esbjerg Local Jail

i. *introduction*

76. Esbjerg Local Jail, which dates from 1947, comprised 45 cells located in a galleried three-storey half-wing. On the first day of the delegation's visit, the establishment was holding 43 inmates.

77. In principle, local jails (or "*Arresthus*") are used to accommodate inmates awaiting trial in the local courts, prisoners who have been sentenced to short periods of imprisonment (i.e. up to three or four months) and prisoners sentenced to "lenient imprisonment" ("*hefte*" - in which case the person sentenced enjoys some discretion as to the choice of the place and time of serving the sentence, e.g. only during weekends or holidays).

In addition to these categories of prisoners, Esbjerg Local Jail provides short-term accommodation for prisoners who have presented security and control problems in State Prisons. Further, prisoners from throughout Jutland can be transferred to the establishment's "special security and observation cell" (on which cf. paragraph 122).

ii. *material conditions of detention*

78. The cells at Esbjerg Local Jail were of a reasonable size for single occupancy (i.e. some 8 m<sup>2</sup>) and properly equipped (bed, locker, table, chair, reading lamp, shelf, washbasin and call system). Ventilation and natural and artificial lighting were also satisfactory. No complaints were received from prisoners about access to the sanitary facilities located outside the cells.

However, at the time of the delegation's visit, four of the cells were being used to hold two persons (three cells held couples who wished to remain together and the remaining cell held two juveniles). Whilst the Committee appreciates that the persons concerned were being held two to a single cell at their own request, **it must stress that cells of 8 m<sup>2</sup> provide only cramped living space for two persons.**

iii. *regime*

79. At the outset of its visit, the CPT's delegation was told that some 20 work places were available in Esbjerg Local Jail's basement workshops (woodworking; stringing rotary clothes driers; assembling and packing toys and fashioning guy ropes for tents). However, an impromptu visit to the workshop area revealed it to be something less than a hive of activity. A number of the workshops were not in use and many of the 11 prisoners who were actually present appeared to have little to occupy them.

As regards, more particularly, the woodworking shop (which lay idle), **the delegation was concerned to note that a number of sharp tools had not been replaced on the wall-mounted "shadow board".**

80. A total of 37 teaching hours per month were provided by two teachers from outside schools. The delegation was told that - due to the absence of classroom facilities - most teaching was provided on a one-to-one basis in prisoners' cells. Inevitably, this approach served to limit the number of inmates who benefited from educational activities.

As for association opportunities, inmates could arrange to visit each other in their cells (a maximum of two inmates per cell, for a maximum of two and a half hours a day). They also had access on request to two small activity rooms - one containing a billiard table and the other a selection of very basic weight-training equipment.

All prisoners took outdoor exercise in a small half-rotunda type exercise area, containing nine wedge-shaped compartments, each measuring some 8m long, 4m across their widest point and narrowing to some 1m across at their entrance. The compartments were of a similar design to those seen in the solitary confinement exercise areas at the Western Prison in Copenhagen (cf. paragraph 68); they effectively prevented prisoners from exerting themselves physically. No sports activities were offered at the establishment.

81. The cumulative result of the shortcomings identified above was that many prisoners spent long periods locked in their cells with little or nothing to occupy their time.

Clearly, the existing facilities at Esbjerg Local Jail are not being used to their maximum potential. The establishment's workshops are not operating at full capacity, space which could be used for additional activities (e.g. as an association room or as a classroom) lies empty, and prisoners are obliged to exercise in very confined areas while an exercise yard of a decent size is unused (apparently because of inadequate perimeter security). These resources are capable of providing the material basis of a reasonable regime for the short-term prison population at Esbjerg Local Jail.

**The CPT recommends that steps be taken to enhance the regime offered to inmates at Esbjerg Local Jail in the light of the above remarks** (in this respect, cf. also paragraph 67, above).

82. However, even with an enhanced regime, Esbjerg Local Jail would not be in a position to offer appropriate activities to prisoners serving long sentences who have been transferred from State Prisons (as regards the regime which should be offered to such prisoners, cf. paragraph 91, below). More generally, it could be argued that, by their very nature, local jails are not in a position to provide an appropriate custodial environment for prisoners serving long sentences.

**The CPT would like to receive the comments of the Danish authorities on this subject.**

e. Horsens State Prison

i. *introduction*

83. Horsens State Prison, which dates back to the mid-19th century, is the oldest prison in Denmark. It is situated on the outskirts of Horsens, the cellular accommodation being provided in an imposing four-storey main building and a modern two-storey facility ("Section 5"). The establishment is essentially a closed prison for sentenced men, although a small remand unit for both male and female prisoners has recently opened in the main prison building. On the first day of the delegation's visit, the prison was operating close to its official capacity of 175, with 140 sentenced prisoners and 26 persons on remand or serving short sentences.

ii. *material conditions of detention*

84. The prison had undergone a number of structural alterations over the years and, at the time of the visit, renovation was underway in the Western Wing. However, efforts to provide satisfactory material conditions for prisoners have been hindered by the physical limitations of the 150-year old main building.

85. The bulk of sentenced prisoners were accommodated in six units located on the second, third and fourth floors of the Eastern and Western Wings of the main building. Each of these units comprised 22 single cells. The cells were of a size which could hardly be called generous (6.3 m<sup>2</sup>); however, they were adequately lit and ventilated. Cell fittings consisted of a bed, table and chair, a few shelves, and occasionally a television. There was no running water or integral sanitation in the cells; however, communal toilet and shower facilities were situated at the end of each unit, and prisoners made no complaints about access to these facilities, including at night. Further, each ward comprised a well-equipped kitchen where prisoners could eat meals delivered from the central prison kitchen and prepare food themselves, a laundry facility and association rooms.

Material conditions observed in the disciplinary isolation unit located on the first floor of the Western wing were distinctly inferior. The cells had a very neglected appearance and were clearly in need of repair.

**The CPT recommends that the Danish authorities actively pursue the on-going refurbishment of the main building and, in particular, take steps without delay to renovate the disciplinary isolation unit.**

86. Additional accommodation for sentenced prisoners was provided in Section 5, which comprised twenty good-sized and well-equipped cells, as well as sanitary facilities, a kitchen and common rooms, all of which were of a high standard. This facility was normally used to accommodate prisoners serving long-term sentences or who had experienced problems on normal location.

87. The remand unit was situated on the first floor of the Eastern Wing. It comprised twenty-two 6.3m<sup>2</sup> cells and 4 slightly bigger cells, which were used if there was a sudden influx of new prisoners. The cell fittings and other facilities were similar to those for sentenced prisoners.

The situation as regards remand prisoners' access to toilet facilities was the same as for sentenced prisoners. At night, they apparently had the option of urinating into plastic bottles, rather than requesting to leave their cells in order to use the communal facility. **However, the CPT wishes to point out that the design of the receptacles concerned rendered them quite unsuitable for such use by female prisoners.**

88. In the course of its visit to Horsens Prison, the CPT's delegation learned that the establishment's Director had drawn up a project for the reconstruction of the main building. It involved, inter alia, the installation of "three cells into two" sanitation, giving prisoners access to a wash basin and a lavatory in a separate sanitary annex; if implemented, the restructuring would reduce the prison's official capacity by approximately 30%. In a letter of 25 November 1996, the Department of Prisons and Probation informed the Committee that "for financial reasons the Department has no immediate plans to proceed with the proposal which therefore has not been subject to a more specific assessment by the Department".

The CPT considers that the above-mentioned proposal has considerable merit and **trusts that, in due course, it will be the subject of a detailed assessment by the Danish authorities. At this stage, the Committee also wishes to make clear that it much prefers the "three cells into two" system of sanitation to so-called "simple sanitation" (in which a lavatory is placed inside each cell).** This is especially true in an establishment such as Horsens State Prison, where the in-cell space in most parts of the establishment is already rather limited. Whatever approach is eventually adopted, the overarching objective should be to avoid prisoners having to comply with the needs of nature in a confined space which is also used as their living quarters.

*iii. regime*

89. The number of work places and the range of other activities available at Horsens Prison were sufficient for the total inmate population. On the first day of the delegation's visit, 118 out of a total of 140 sentenced prisoners were engaged in either work or education (58 in the textile, graphics, furniture and assembly workshops, 9 in the kitchen, 25 on various maintenance duties and 26 in the school). The school offered classes in Danish, English, mathematics, computer skills, etc., and the delegation was particularly impressed by its computing arrangements.

Following the end of work and education activities at 3.30 pm, prisoners could engage in various leisure activities until 9.30 pm (when the cell doors were locked). The prison possessed a number of well-equipped hobby and handicraft rooms (for wood carving, leather work, drawing, painting) which were opened between 6 and 8.30 pm; however, certain prisoners claimed that they were not used very often because of the shortage of supervisory staff. Further, language teaching and cooking classes were offered in the evenings. Five interest groups had been formed, which organised concerts, lectures on music, drama, etc. Inside their units, sentenced prisoners had access to common rooms equipped with a television, a video recorder and a music system, rooms for table tennis and for playing darts and a pool table.



Remand prisoners and prisoners serving short-term sentences could work in their cells, borrow books and periodicals from the library, watch television (either in their cells or in the communal area), and play table tennis or darts within the unit. Further, they were allowed to spend the time between 3.30 and 8 pm with one other remand prisoner of their choice in their cells.

90. All prisoners were entitled to at least one hour of outdoor exercise every day. The exercise and sport facilities for sentenced prisoners comprised a large exercise yard, a gymnasium big enough for basketball games and a fitness room (in the basement of the main building) which could be used by up to eight prisoners at a time.

In contrast, the exercise area for remand prisoners could not be considered satisfactory. It consisted of two enclosed yards, each measuring some 30m<sup>2</sup>, surrounded by a 2.5 m high wall and used by up to six prisoners at a time. In short, they were confined and rather depressing facilities. Consequently, **the CPT recommends that the outdoor exercise facilities for remand prisoners be improved.**

91. To sum up, Horsens State Prison has the potential to enable all prisoners to spend a reasonable part of the day engaged in purposeful activities. Unfortunately, at the time of the visit, this potential was not being fully realised, at least in part because of the aforementioned problem of inter-prisoner violence at the establishment (cf. paragraph 51). As an example, the prison gymnasium - a good-quality facility - appeared to be underused, and the delegation was told that attempts to organise sport competitions had recently been undermined by "strong" prisoners. A joint prisoner-staff Committee for leisure time activities was examining the situation.

The CPT has already set out its views on the regimes which should apply to remand prisoners (cf. paragraph 67). The Committee considers that the regimes made available to sentenced prisoners should be even more favourable, in particular, for those serving lengthy sentences. As regards the latter, the provision of individualised custody plans should be an important element in assisting them to come to terms with their period of incarceration and to prepare for release. **The CPT recommends that the Danish authorities vigorously pursue their efforts to improve the regime at Horsens State Prison, in the light of these remarks.**

## 5. Health care services

### a. staff and facilities

92. In view of its function as a day holding facility, **the Police Headquarters Prison** did not have an in-house health care service. Prisoners who required medical attention whilst at that establishment were transferred to the Western Prison for treatment, a system which appeared to function satisfactorily.

93. The **Western Prison in Copenhagen** includes a 36 bed hospital which serves all prisons in the Copenhagen area. The establishment's health care staff consisted of 8 full-time doctors, 3 part-time psychiatrists and 22 nurses. As well as catering for the hospital, this health care team also serviced the out-patient needs of the Western Prison. It also appeared that prisoners in need of specialist care experienced no significant difficulties in gaining access to outside specialists.

The health care facilities, although not always the most modern, were of a satisfactory standard.

94. At the **Herstedvester Institution**, the CPT's delegation was impressed by the high number of health care staff in relation to the number of inmates: 1 general practitioner, 4 psychiatrists, 3 psychologists, 5 full-time and 2 part-time nurses. In addition, the institution was visited by a dentist (three to four times a week) and a physiotherapist (twice a week).

The establishment's somatic health-care facilities were spacious and well-appointed.

95. At **Esbjerg Local Jail**, the health care service was staffed by two general practitioners, each of whom visited the prison for one morning every other fortnight. In other words, a morning surgery was held once every fourteen days. Between their visits, they were available for telephone consultations from 9.00 am to 4.00 pm on weekdays (although one of the doctors, who was interviewed by the CPT's delegation, admitted that it was extremely rare for him to be contacted by the prison). After that time, prison staff could contact the local emergency on-call service. A nurse worked between 9.00 a.m. and noon from Monday to Friday (i.e. three hours a day) and was on call over the weekend. It is noteworthy that the CPT's delegation heard a number of complaints from prisoners at Esbjerg about lengthy delays before seeing a doctor.

In the view of the CPT, an establishment of the size of Esbjerg Local Jail should be visited by a doctor at least once a week. Accordingly, **the Committee recommends that the Danish authorities take steps to increase frequency of visits by a doctor to that establishment.**

Health care facilities at the prison were found to be of a good standard.

96. The full-time health-care staff at **Horsens State Prison** comprised four nurses who were present between 6.30am and 5.30pm on weekdays. A doctor held surgeries at the prison twice a week, and was on call at other times. Further, a dentist and a psychiatrist paid weekly visits to the establishment, and other specialists could be called in if required.

As regards the prison's health-care facilities, they were found to be in a poor state of repair, a failing which was about to be corrected as a result of the on-going renovation of the Western wing, where those facilities were located. **The CPT would like to be informed whether the renovation of the health-care facilities has now been completed.**

b. psychiatric and psychological treatment

97. At the **Western Prison**, three psychiatrists each provided eight hours of service per week. As regards nurses with psychiatric training, it appeared that the situation was similar to that observed by the CPT's delegation in 1990 (cf. paragraph 49 of document CPT/Inf (91) 12). However, despite the fact that none of the nurses had received specialised training in psychiatry, a number had worked in psychiatric hospitals and the Head Doctor told the delegation that he planned to introduce in-service training in psychiatry for nursing staff. The CPT welcomes this initiative and **would like to receive further details about this training programme.**

98. By virtue of the **Herstedvester Institution's** special functions (cf. paragraph 69), the majority of the institution's inmate population were undergoing some form of psychiatric or psychological treatment. Approximately half of the inmates were on medication, mainly neuroleptic drugs. Further, prisoners took part in psycho-social activities which encompassed occupational and individual therapy (however, no group therapy was available). Historically, milieu therapy has been an important element in the treatment programme at Herstedvester. It requires the participation of all staff members in the creation of a therapeutic environment for the treatment of inmates. For this purpose, some 50% of prison officers at Herstedvester have followed a ten-week special training programme at a psychiatric hospital. However, this approach had some repercussions on the observance of medical confidentiality (cf. paragraphs 110 and 111 below).

99. In the report on its first visit to Denmark, the CPT expressed concern about the potential for conflicts in decision-making on the treatment of persons imprisoned at the Herstedvester Institution, due to the divergence between legal and therapeutic points of view. During the second visit, it was made clear that, although decisions concerning the general position of prisoners are the responsibility of the Institution's Director, who is a prison administration official (a lawyer), responsibility for the medical treatment of inmates lies exclusively with the Chief Psychiatrist. Co-operation between all staff members is ensured through daily meetings of medical and custodial staff.

100. Another of the Committee's concerns which had arisen from its first visit to Herstedvester related to the occasional application of compulsory psychiatric treatment in a prison environment and what appeared to be a lack of appropriate safeguards for the prisoners concerned. According to the information received by the CPT's delegation during the second visit to Herstedvester, compulsory psychiatric treatment had not been practised at the institution for the past five years, inmates in need of such treatment being transferred to a psychiatric hospital. In addition, the Danish authorities have reiterated their conviction that compulsory treatment should be strictly limited to psychiatric wards.

It is never possible to avoid completely the presence of psychotic persons within the prison system, and on rare occasions it may be necessary to initiate compulsory treatment prior to their transfer to a psychiatric hospital (e.g. because of a temporary lack of beds in psychiatric hospitals, because the person concerned does not satisfy the criteria of the Mental Health Act or does not want to be transferred to a psychiatric hospital, etc.).<sup>12</sup> The CPT wishes to stress that, whenever resorted to in a prison establishment, compulsory treatment should be subject to specific safeguards, comparable to those applying to voluntary patients in psychiatric wards. Further, it should be ensured that a transfer to a psychiatric establishment takes place as soon as possible. In this context, **the CPT would like to receive confirmation that the above-mentioned safeguards exist in Denmark.**

101. At **Esbjerg Local Jail**, both a doctor and the nurse expressed the view that certain prisoners held in the establishment would benefit from access to a visiting psychiatric service, a facility which was not available on any regular basis at the time of the visit. The delegation's psychiatric expert himself interviewed two prisoners who displayed mental health problems. One of them, who was clearly mentally handicapped, did not appear to have been provided with any specific assistance whilst in the prison. The second, who was being prescribed neuroleptic medication, would almost certainly have benefitted from specialist psychiatric care.

All prisons from time to time accommodate a certain number of prisoners who, while not requiring admission to a psychiatric facility, could benefit from ambulatory psychiatric and psychological care. In the light of its delegation's findings at Esbjerg Local Jail, **the CPT recommends that the Danish authorities consider introducing a visiting psychological/psychiatric service at that establishment.**

102. Lastly, as regards **Horsens State Prison**, as already indicated, the existing provision for visiting psychiatric services appeared to be satisfactory.

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<sup>12</sup> This possibility has also been acknowledged by the Danish Medical Association and by Dr Peter Kramp, Chief Psychiatrist at the Clinic of Forensic Psychiatry, Ministry of Justice and Psychiatric Adviser to the Department of Prisons and Probation, in an interview for the Journal of the Danish Medical Association (cf. document CPT/Inf (96) 14, pp. 105-121).

c. medical screening on admission

103. In the CPT's view, all newly admitted prisoners - sentenced or on remand - should be seen without delay (i.e. within 24 hours) by a member of the prison health-care service (and not just offered the possibility of an interview). If necessary, they should be given a medical examination. This medical screening on admission could be undertaken either by a doctor or by a qualified nurse reporting to a doctor.

104. At the **Western Prison**, all newly-arrived prisoners were seen by a qualified nurse, in principle, within 24 hours of their arrival. In cases where the nurse considered that it was necessary for the prisoner concerned to be seen by a doctor, a doctor was called without delay.

The CPT considers that such an approach is entirely acceptable.

105. Newly-admitted prisoners at the **Herstedvester Institution** were seen without delay by a medical committee headed by the Chief Psychiatrist, who assessed their needs for psychiatric treatment. Further, all prisoners were subsequently seen by a doctor (i.e. a general practitioner).

106. No systematic screening on reception was carried out at **Esbjerg Local Jail**. Newly-arrived prisoners would only be seen by the nurse at their request (or that of prison staff). According to the nurse, she saw approximately 50% of new arrivals.

The importance of medical screening of new arrivals at an establishment such as Esbjerg - which represents a point of entry into the prison system - cannot be over-emphasised. Such screening is indispensable; in particular, for preventing the spread of transmittable diseases, suicide prevention and the timely recording of injuries. As regards this latter point, the delegation's doctor observed that two prisoners who displayed signs of pre-existing injuries had apparently not been seen by the doctor since their arrival at that establishment.

107. At **Horsens State Prison**, newly-arrived sentenced prisoners were seen by a nurse on the day following their arrival at the prison. However, as regards remand prisoners, they were only seen by a nurse upon admission if they so requested; as already mentioned in respect of Esbjerg Local Jail, this is not satisfactory.

108. **The CPT recommends that the Danish authorities ensure that all newly-arrived prisoners at Esbjerg Local Jail and Horsens State Prison are medically screened on admission.**

d. medical confidentiality

109. Medical secrecy should be observed in prisons in the same way as in the outside community. Keeping patients' files should be the doctor's responsibility. All medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of prison officers.

The delegation's observations at the **Western Prison, Esbjerg Local Jail and Horsens State Prison** suggested that the confidentiality of prisoners' medical files was satisfactorily observed. If a medical file needed to be transferred from one prison to another, the concerned prisoner's consent was sought beforehand. Further, medical examinations were conducted out of the sight and hearing of prison officers.

110. The approach to medical confidentiality at the **Herstedvester Institution** was rather less conventional. Two separate medical records were kept for each inmate: one for somatic health matters, the another for psychological/psychiatric matters. Files concerning prisoners' somatic health were accessible only to medical staff; however, both medical and non-medical staff had access to prisoners' psychiatric records.

In this connection, the delegation noted that inmates had not been advised of - let alone been asked to give their written consent to - the disclosure of confidential psychiatric information to non-medical staff.

111. During the delegation's visit, the Institution's Chief Psychiatrist emphasised that the disclosure of psychiatric information to non-medical staff was considered essential for the specific treatment regime at Herstedvester, which depended to a large extent on team-work between medical and custodial staff, and the day-to-day interactions between prison officers and inmates (cf. paragraph 98 above).

During a meeting with the Danish authorities at the end of the visit, the CPT's delegation suggested that prisoners entering the special environment of Herstedvester should be made aware of the particular approach adopted to sharing medical data at that establishment. By letter of 25 November 1996, the Danish Department of Prisons and Probation informed the CPT that an instruction to that effect had been sent to the Herstedvester Institution on 31 October 1996. **The CPT would like to receive confirmation that prisoners admitted to the Herstedvester Institution are now informed in writing of the disclosure of confidential psychiatric information to non-medical staff, either before or immediately upon their arrival at the establishment.**

e. issues related to transmissible diseases

112. As far as the delegation was able to ascertain, no compulsory testing for transmissible diseases was carried out at the prison establishments visited. Tests for HIV and hepatitis were carried out on a voluntary basis, and their results were protected by medical confidentiality. Further, HIV-positive prisoners were not segregated from the rest of the prison population. The CPT welcomes the approach taken by the Danish authorities.

Appropriate counselling should be provided before any HIV-screening test and in the case of a positive result, psychological support should be guaranteed. **The Committee wishes to be informed of whether this is the case in Denmark.**

More generally, the CPT considers that there should be a policy for combatting transmissible diseases (in particular hepatitis, AIDS, tuberculosis and skin diseases) in places of detention, based upon a programme of education and information - for both prison staff and inmates - about methods of transmission and means of protection, as well as the application of adequate preventive measures. **The Committee would like to receive information about the current situation in Denmark in this respect.**

f. medical treatment of sex-offenders

113. A number of inmates at the Herstedvester Institution were sex offenders who were serving long sentences or sentences of indeterminate length ("*forvaring*"). At the time of the visit, eight of them had volunteered to undergo treatment with libido-suppressing drugs (a sex hormone (cyproterone acetate) and/or a pituitary hormone (of which the active ingredient was triptorelin)). However, the signed consent of patients was not obtained prior to the commencement of treatment. Further, the psychiatric medical records at the Institution recorded that patients were informed of some of the adverse effects of this treatment (i.e. weight gain, breast enlargement and hot flushes), but not of certain other recognised adverse effects of the drugs concerned.

It should also be noted that although prisoners who chose to follow such a course of treatment were not promised early release, medical staff acknowledged that release or transfer to an open prison could be contingent upon accepting libidinal suppressants. Some of the prisoners interviewed by the delegation maintained that their decision to take the drugs concerned had been motivated by the prospect of release/transfer.

114. During a meeting held with the Danish authorities at the end of the visit, the CPT's delegation suggested that steps be taken to ensure that the signed consent of patients is obtained prior to the commencement of treatment with libido-suppressing drugs, and that such persons be given a detailed explanation (including in writing) of all recognised adverse effects of the drugs concerned<sup>13</sup>.

By letter of 25 November 1996, the Department of Prisons and Probation informed the Committee that it had already requested the Herstedvester Institution "to adapt its future practice" in accordance with this suggestion. **The CPT would like to receive confirmation that the above-mentioned approach to securing patients' consent to treatment with libido-suppressing drugs has now been adopted at the Herstedvester Institution.**

115. The CPT also wishes to stress that ensuring that patients' consent to medical treatment is genuinely free and informed is a particularly acute issue in establishments (such as the Herstedvester Institution) in which patients constitute a "captive" group. The consent given by patients of that category may be influenced by their penal situation, especially if they are facing a long - or even indeterminate - period of imprisonment.

It follows that additional safeguards (e.g. the support of a system of lay/legal "advocates") should exist to ensure that the consent given by such prisoners to medical treatment can truly be said to be free and informed. **The CPT would like to be informed of whether any such additional safeguards exist in Denmark.**

116. Lastly, it is not for the CPT to express a view on the clinical value of using libido-suppressing drugs, such as those employed at the Herstedvester Institution. However, it is clear that such treatment should be subject to regular evaluation by an appropriate, external medical authority. **The Committee would like to be informed of whether this is currently the case.**

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<sup>13</sup> The 30th Edition (1993) of Martindale's Extra Pharmacopoeia records the following adverse effects of **cyproterone acetate**: "When given to males, cyproterone inhibits spermatogenesis, reduces the volume of ejaculate, and causes infertility; these effects are slowly reversible. Abnormal spermatozoa may be produced. Gynaecomastia is common and permanent enlargement of the mammary glands may occur; galactorrhoea and benign nodules have been reported. There may be initial sedation and depressive mood changes. Patients may experience alterations in hair pattern, skin reactions, weight changes, and anaemia. Osteoporosis may occur rarely. Altered liver function and breathlessness may occur with high doses. There have also been reports of hepatitis developing during cyproterone therapy." (p.1180). As regards **triptorelin**, Martindale records that, although "generally well-supported", it "may cause gastro-intestinal adverse effects, usually nausea and abdominal pain or discomfort. There may be headache or lightheadedness ... hot flushes and loss of libido. Reactions or pain may occur at the site of the injection with rash (local or generalised), swelling, or pruritus. Hypersensitivity reactions, including bronchospasm have been reported." (p.954).



## 6. Other issues related to the CPT's mandate

### a. contact with the outside world

117. It is very important for prisoners to be able to maintain reasonably good contact with the outside world. Above all, they must be given the opportunity to preserve their relationships with their families and/or friends, and in particular with their spouse or partner and children. The maintenance of such relationships can be of critical significance for all concerned, particularly in the context of the prisoner's social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. This is the spirit of several recommendations made in the European Prison Rules, in particular those set out in paragraph 43, sub-paragraph 1 and paragraph 65, item c.

118. The CPT's delegation found that all inmates in the establishments visited were normally allowed a visit of at least half-an-hour per week. In principle, this may be considered satisfactory; however, the delegation did hear some complaints (in particular, from sentenced prisoners who had been transferred to **Esbjerg Local Jail**), to the effect that this visiting allowance could be inadequate in cases where their relatives or friends had to travel some considerable distance to reach the prison (and therefore were not always able to visit on a weekly basis). In this respect, **the Committee wishes to emphasise the need for a degree of flexibility in applying the rules on visits to prisoners whose families live some considerable distance away (for example, by allowing them to accumulate their visiting entitlement).**

In addition, prisoners could apply to receive extended unsupervised visits, to enable them to maintain family and personal (including sexual) relations. **The Committee considers that granting such visits is a constructive measure, provided that they take place under conditions which respect human dignity.**

119. Remand prisoners held in judicially-ordered solitary confinement were granted visits under police supervision. It was the policy of the Danish police to provide interpreters during such visits for prisoners who could not speak with their visitors in a language which police officers understood. However, the delegation received a number of allegations to the effect that such interpreters had not always been provided. The prisoners concerned alleged that, during such visits, they had not been permitted to communicate orally with family members who did not speak a language which police officers understood. Obviously, such a situation would not be satisfactory.

**The CPT would like to receive the comments of the Danish authorities on this question.**

120. Visiting facilities were found to be of a good standard in all of the establishments visited and the situation as regards telephone contact and prisoners' incoming and outgoing mail also appeared to be satisfactory.

b. segregation of prisoners for disciplinary or other reasons

121. There had been no significant change in the rules governing the application of disciplinary sanctions since the CPT's 1990 visit. Prisoners are informed of the nature of any disciplinary charge against them and benefit from the right to a hearing and the right of appeal (to the Department of Prisons and Probation). In the establishments visited, the delegation found that the records of disciplinary hearings were scrupulously kept, and that there was no evidence of excessive resort to the use of disciplinary sanctions.

Prisoners placed in segregation for other reasons (e.g. on security grounds or for observation) also benefitted from appropriate safeguards (right to be informed of reasons, right to present views and right of appeal) and were closely supervised by medical and custodial staff.

122. Material conditions in the cells used to segregate prisoners at the **Western Prison** and at **the Herstedvester Institution** were found to be of a reasonable standard. As regards the disciplinary area at **Horsens State Prison**, the Committee has already made a recommendation designed to address the deficiencies which were found by its delegation (cf. paragraph 85, above).

The special security/observation cell located in the basement of **Esbjerg Local Jail** was found to be of an outmoded design, and the CPT's delegation was pleased to be shown a detailed plan for its replacement by two new security/observation cells of a far more appropriate design. In a letter dated 27 January 1997, the Department of Prisons and Probation informed the Committee that this work had been completed at the end of 1996.

c. reception procedures

123. Properly-conducted reception procedures can play an important role in addressing the depression and anxiety which may be experienced by newly-arrived prisoners. This is especially true as regards persons being admitted to prison for the first time. As regards, more specifically, medical screening on reception, cf. paragraph 103, above.

The CPT's delegation was broadly satisfied with the reception procedures applied in all of the establishments visited. Prison staff performed this role with some sensitivity and the physical conditions in which reception took place permitted an appropriate degree of privacy. Moreover, all of the prisons visited furnished newly-admitted prisoners with basic written information about daily life in the establishment.

124. The only criticism which could be levelled at the procedures observed was that whereas **the Western Prison, the Herstedvester Institution and Horsens State Prison** provided written information in a variety of languages, **Esbjerg Local Jail** only offered such information in Danish and/or English. **The CPT invites the Danish authorities to take steps to ensure that the written information provided to prisoners on reception at Esbjerg Local Jail is made available in a wider range of the languages most commonly spoken by prisoners.**

d. complaints and inspection procedures

125. Effective complaints and inspection procedures are fundamental safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them both within and outside the context of the prison system, including the possibility of confidential access to an appropriate authority. The CPT attaches particular importance to regular visits to each prison establishment by an independent body empowered to hear (and if necessary take action upon) complaints from prisoners and to inspect the premises.

126. At the time of the CPT's first visit to Denmark, each remand prison had a "Board of Visitors" with the power to visit the prison and receive prisoners' complaints. However, no such bodies existed in respect of establishments for sentenced prisoners. The CPT recommended that the Danish authorities review the complaints procedures applicable in establishments for sentenced prisoners with a view to supplementing them by an element independent of the Department of Prisons and Probation (cf. paragraph 104 of document CPT/Inf (91)12).

In a letter dated 30 January 1995, the Danish authorities informed the Committee that a Working Party (which had been set up by the Criminal Law Council to draft a new prison law) had reviewed the independence of prison complaints procedures. The Working Party had concluded that a wide variety of decisions made by the prison authorities should be made subject to review by the courts or other independent bodies (cf. page 175 of document CPT/Inf (96) 14). During the Committee's second visit, these proposals were still under consideration by the Criminal Law Council.

**The CPT recommends that a high priority be given to the adoption of measures designed to enhance the independence of the complaints procedures to which prisoners have access. The Committee would like to be kept informed of the legislative progress being made in this respect.**

127. The CPT's 1991 report also recommended that the Danish authorities consider the possibility of establishments for sentenced prisoners being inspected by an independent body (cf. paragraph 104 of document CPT/Inf (91) 12). The Committee's 1996 delegation was therefore interested to learn that the Act on the Parliamentary Ombudsman had been amended (with effect from 1 January 1997) to provide that the Ombudsman shall have responsibility for inspecting such establishments -and all other prisons - on a systematic basis. This enlargement of the Ombudsman's role is to be accompanied by the abolition of Boards of Visitors for remand prisons.

The delegation discussed this matter with the Ombudsman, who explained that the creation of a specialised inspection unit should enable his office to carry out up to 20 inspections a year. At such a rhythm of visits, he anticipated that the major closed establishments would be inspected every two years and open prisons every three years.

The CPT welcomes this development and **would like to receive copies of the Ombudsman's reports on his visits to prisons.**

128. Lastly, reference should be made to a recently-created prisons inspection body - the Internal Inspection - which was set up within the Department of Prisons and Probation in Summer 1995. The Internal Inspection has already produced a number of high-quality reports and **the Committee would like to receive copies of future reports produced by this body.**

e. drug abuse

129. Many prisoners interviewed at the Western Prison and Horsens State Prison intimated that a variety of drugs were readily available inside those prisons.

Indeed, the results of a survey conducted at Horsens State Prison in November 1995 indicated that 46% of prisoners had been using drugs in the previous six months. The delegation learned of the forthcoming opening of a new drug-free unit with 16 places in Horsens town centre, scheduled for November 1996. Prisoners from the whole of Denmark can apply to be admitted there. However, judging by the number of prisoners at Horsens State Prison alone who, in the course of interviews, indicated their wish to be accommodated in a drug-free prison, the capacity of the unit would seem unlikely to meet demand.

130. It is important that the prison authorities make efforts to provide an environment in which prisoners without drug problems do not develop them and those that have such problems are helped to overcome them.

Because of their everyday contact with inmates, prison officers are ideally placed to assist inmates to avoid or overcome problems associated with the use of drugs. It follows that a high priority should be accorded to effective drug awareness training of prison staff, which would provide a basis for establishing constructive, helping relationships with prisoners. Further, more consideration should be given to the introduction of effective programmes of education, counselling and other forms of support for prisoners, as well as the setting up of drug-free units and prisons. It is clear that any preventive measures must also be accompanied by a genuinely multidisciplinary therapeutic programme to help drug addicted prisoners.

**The CPT would like to receive the comments of the Danish authorities on these issues.**

f. the treatment of Greenlanders

131. In the report on its first visit to Denmark, the CPT paid particular attention to the situation of prisoners from Greenland held at the Herstedvester Institution. By letter of 6 February 1995,<sup>14</sup> the Danish authorities informed the Committee of their decision to set up a Greenlandic Legal System Commission the aim of which is "to scrutinise and reassess the entire Greenlandic legal system... to examine and assess the current system concerning the Prison and Probation Service in Greenland... [and] to consider and set out how special prison institutions may be established in Greenland with a view to terminating the present arrangement under which Greenlanders serve a prison sentence at the Herstedvester Institution." This Commission is expected to take three to four years to complete its work.

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<sup>14</sup> cf. document CPT/Inf (96) 14, pp. 175-176

132. As regards in particular the Herstedvester Institution, at the time of the CPT's second visit it was holding only 6 Greenlanders, all of whom had been sentenced to unspecified periods of time. As in 1990, they were accommodated in a separate building, the material conditions in which were quite adequate. The delegation noted that since the Committee's first visit progress had been made as regards several important aspects of the Greenlanders' life at the establishment. In the first place, Greenlandic prisoners had been given the opportunity to receive Greenlandic food twice a week. Further, to counter the effects of prolonged separation from their culture, steps had been taken to employ more Greenlandic staff in the section (an interpreter, a social worker, and, on occasion, one or two Greenlandic prison officers). The Institution's internal rules had been translated into Greenlandic, and plans were underway to enhance education and provide Greenlanders with more specialised occupational therapy. As regards Greenlandic prisoners' contact with the outside world, money had been allocated to enable them to make phone calls, have home visits and receive visitors from Greenland.

**The CPT welcomes the steps taken by the Danish authorities to improve the situation of Greenlandic prisoners held at the Herstedvester Institution. However, there can be no doubt that the present system has a number of undesirable effects which could be avoided if such prisoners were able to serve their sentences in Greenland. In this connection, the Committee would like to be kept informed of the progress made by the above-mentioned Greenlandic Legal System Commission, as well as on any other developments in this area.**



### III. RECAPITULATION AND CONCLUSIONS

#### A. Police establishments

133. The CPT's delegation heard no allegations of torture having been inflicted by police officers on persons held in police establishments in Denmark. Moreover, the great majority of the persons met by the delegation who were, or recently had been, detained by the police indicated that they had been correctly treated, both at the time of arrest and during questioning.

However, a certain number of allegations were heard from persons detained by the police and from prisoners of the disproportionate use of force by police officers, in particular at the time of apprehension. The delegation was also able to examine a number of formal complaints about ill-treatment by the Danish police which are (or have been) the subject of official investigations. Certain of those cases included medical findings which lent credence to the allegations of the persons concerned.

134. The CPT fully recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest and/or is someone whom the police have good reason to believe represents an immediate danger. The circumstances of an arrest may be such that injuries are sustained by the persons concerned (and by police officers) without this being the result of an intention to inflict such ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by police officers.

In the light of the information gathered by its delegation, the CPT has recommended that police officers be reminded of these precepts.

135. Reference has also been made to the use by the police of the means of restraint known as the "leg lock". The CPT has recommended that the Danish authorities continue closely to monitor cases involving the application of such means of restraint, to ensure that they are not, on occasion, being applied by police officers in an over-zealous fashion.

Further, in the light of information received to the effect that police officers on occasion drag detainees to police vehicles by their handcuffed wrists, without providing any support to their arms and shoulders, the CPT has recommended that police officers be issued with instructions which make clear that it is not acceptable to use such methods.

136. As regards the existence of formal safeguards against ill-treatment for persons detained by the police (e.g. notification of custody, access to a lawyer, access to a doctor), the CPT's delegation found that, in practice, the extent to which detained persons were able to benefit from those safeguards varied from one police station to another. Consequently, the Committee welcomes the recent production by the Danish authorities of a draft Circular spelling out the safeguards which are to be offered to detained persons. Nevertheless, the draft Circular does not fully meet its concerns in this area; consequently, the CPT has recommended that its terms be re-drawn in a number of respects.

Other measures intended to provide additional safeguards against the ill-treatment of persons deprived of their liberty by the police have also been recommended by the Committee, such as the introduction of a form setting out the rights of such persons to be systematically given to them at the very outset of their deprivation of liberty, and the drawing up of a code of practice for police interrogations.

137. With few exceptions, material conditions of detention in the police establishments visited were found to be broadly in conformity with the CPT's basic criteria. However, at Police Station No 1 in Copenhagen and the Esbjerg Police Headquarters, detainees' access to toilet facilities was, on occasion, subject to extended delays. Further, some of the waiting rooms at Esbjerg and Horsens Police Headquarters were very small, windowless and unventilated, which rendered them scarcely suitable for use as detention facilities.

More generally, the delegation observed that arrangements for the distribution of food remained problematic. In all but one of the establishments visited (Police Station No. 3 in Copenhagen) there were apparently no formal arrangements for the distribution of food. In consequence, some detained persons received little or nothing to eat during their time in police custody.

## **B. Prisons**

138. The CPT's delegation heard no allegations of torture of prisoners by prison staff in prison establishments in Denmark and gathered no other evidence of the existence of such treatment. Further, the delegation heard no allegations of other forms of physical ill-treatment of inmates by prison staff in Denmark, with the exception of one incident concerning the Sandholm Institution for Detained Asylum Seekers. The Committee has recommended that the Danish authorities carry out an external investigation into that incident, and has stressed that the prohibition of striking persons who have been brought under control applies equally in the penal as in the police sphere.

139. The CPT's mandate is not limited to ill-treatment of persons deprived of their liberty which is inflicted or authorised by prison staff. Naturally, the Committee pays close attention to such ill-treatment; nevertheless, it is also very concerned when it discovers a prison culture which is conducive to inter-prisoner intimidation/violence.

The delegation's findings at the Western Prison and Horsens State Prison indicated that incidents of inter-prisoner intimidation/violence were a feature of life in those establishments. The CPT has recommended that the Danish authorities carry out a thorough investigation into the nature and scale of the problem of inter-prisoner violence at those establishments. More generally, it has invited the Danish authorities to devise a national strategy to address this problem.

140. In the course of its ongoing dialogue with the Danish authorities, the CPT has stressed that all forms of solitary confinement without appropriate mental and physical stimulation are likely in the long term to have damaging effects, resulting in deterioration of mental faculties and social abilities. It has paid particular attention to the solitary confinement of remand prisoners by court order, which can continue for extended periods.



During the 1996 visit, a considerable number of doctors, lawyers, prison staff and other persons who have frequent contact with such inmates told the CPT's delegation that, in their experience, prisoners subjected to lengthy periods of judicially-ordered solitary confinement frequently exhibited lapses in concentration, memory loss and impaired social skills. Those observations were borne out by the delegation's own findings in the course of the visit.

Moreover, the information gathered during the second periodic visit would suggest that - at least in respect of certain types of cases (serious drugs offences, crimes of violence etc.) - the balance between the legitimate requirements of a criminal investigation and the potentially harmful effects of imposing solitary confinement is still not being struck in an appropriate way.

141. The CPT has proposed a number of measures designed to ensure that the safeguards in Danish law concerning the placement of remand prisoners in solitary confinement are rendered fully effective in practice. It has, in particular, recommended that prosecutors be reminded that they should only seek a placement in solitary confinement when this is strictly necessary in the interests of a particular criminal investigation. It has also recommended that on every occasion when the question of whether to impose or prolong solitary confinement is raised before a court, the reasoned grounds for the decision which results be recorded in writing, and prisoners be informed systematically in straightforward language of the reasons for their placement in judicially-ordered solitary confinement. Further, in the context of each periodic review of the necessity to continue remand in custody, the necessity to continue a placement in solitary confinement should be fully considered as a separate issue, bearing in mind the general principle that all placements in solitary confinement should be as short as possible. The Committee has also invited the Danish authorities to consider introducing a maximum limit on the total period for which a remand prisoner may be placed in solitary confinement.

142. The effect upon remand prisoners of being placed in judicially-ordered solitary confinement can be exacerbated by the imposition of restrictions upon their letters and visits. The CPT considers that the current system of police-imposed restrictions upon letters and visits does not adequately ensure that the measures adopted in a given case will be strictly proportionate to the needs of the criminal investigation involved.

Accordingly, the Committee has reiterated its 1991 recommendation that the police be given clear instructions on the circumstances in which such prohibitions/restrictions may be imposed and that they be required to state the reasons in writing for any such measures. The CPT has also recommended that, in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters be considered as a separate issue.

143. As regards the question of activities for remand prisoners placed in judicially-ordered solitary confinement, the CPT has recommended that the Danish authorities pursue their efforts to provide all such persons with access to purposeful activities and appropriate human contact.

144. Material conditions of detention at the **Western Prison** have been improved by the considerable amount of renovation work which has been carried out in recent years. Nevertheless, a number of cells seen by the CPT's delegation (especially in the Southern Wing) were dilapidated and in poor decorative order. The Committee has recommended that a very high priority be given to completing the scheduled renovation work at the establishment, and that steps be taken to ensure that the programme of ongoing maintenance of the cells is more closely geared to the degree of wear-and-tear to which they are subjected.

The CPT was also concerned to note that, at the time of its delegation's visit in 1996, the regime offered to inmates at the Western Prison was less developed than had been the case in 1990. The Committee has recommended that the Danish authorities take steps to enhance the regime at that establishment. In so doing, it has stressed that the overarching objective should be to ensure that all prisoners - including those on remand - can spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (group association activities, education, sport, work with vocational value).

The CPT has also recommended that steps be taken to ensure that all prisoners held in solitary confinement at the Western Prison benefit from proper, daily, open-air exercise. In this respect, the CPT's delegation found that, since 1990, there had been no improvement in the exercise facilities for prisoners held in solitary confinement at that establishment.

145. As in 1990, conditions of detention at the **Herstedvester Institution** were found to be adequate. However, the Committee has recommended that steps be taken to refurbish the cells in the psychiatric ward. Although the regime varied according to the ward in which prisoners were accommodated, on the whole the range of activities offered at Herstedvester can be described as very good.

146. Conditions of detention at **Esbjerg Local Jail** were generally of a satisfactory standard. In particular, the cells were of a reasonable size for single occupancy and properly equipped. However, the delegation identified a number of shortcomings in the regime offered to prisoners. The Committee has recommended that steps be taken to enhance that regime.

Further, with reference to the occasional use of the establishment to accommodate prisoners who had presented security and control problems in State Prisons, the Committee has stressed that - by their very nature - local jails such as Esbjerg are not in a position to offer an appropriate custodial environment to prisoners serving long sentences.

147. Conditions of detention for prisoners at **Horsens State Prison** were, on the whole, adequate. However, the cells in the disciplinary isolation unit had a very neglected appearance and were clearly in need of repair. The CPT has recommended that the Danish authorities actively pursue the on-going refurbishment of the 150 year old main building and, in particular, take steps without delay to renovate the disciplinary isolation unit.

As regards regime activities, the number of work places and the range of other activities available at Horsens Prison were in principle sufficient for the total inmate population. Unfortunately, at the time of the visit, not all prisoners benefitted from appropriate programmes of activities, at least in part because of the problem of inter-prisoner violence at the establishment. The Committee has made clear that the regimes offered to sentenced prisoners should be even more developed than those which apply to inmates on remand. Accordingly, it has recommended that the Danish authorities vigorously pursue their efforts to improve the regime at Horsens, in particular for those serving lengthy sentences.

148. The level of general medical care and the provision of psychiatric/psychological and other specialist care at the Western Prison, the Herstedvester Institution and Horsens State Prison call for no particular comment. However, the situation was less satisfactory at Esbjerg Local Jail; the Committee has recommended that steps be taken to increase the frequency of visits by a doctor to that establishment. Further, the CPT has recommended that consideration be given to introducing a visiting psychological/psychiatric service at Esbjerg Local Jail.

149. Approaches to medically screening newly-arrived prisoners varied from one prison to the other. The approach adopted at the Western Prison and the Herstedvester Institution was found to be entirely acceptable. However, that was not the case at Esbjerg Local Jail and Horsens State Prison; the CPT has recommended that the Danish authorities ensure that all newly-arrived prisoners at those two establishments are medically screened on admission.

150. At the Western Prison, Esbjerg Local Jail and Horsens State Prison medical confidentiality was satisfactorily observed. However, the approach to medical confidentiality at the Herstedvester Institution was rather less conventional. Two separate medical records were kept for each inmate: one for somatic health matters, which was accessible only to medical staff, and another for psychological/psychiatric matters, to which both medical and non-medical staff had access. No steps had been taken to obtain inmates' written consent to the disclosure of confidential psychiatric information to non-medical staff. Having taken account of the information on this subject which was subsequently transmitted by the Danish authorities, the CPT has sought confirmation that prisoners admitted to the Herstedvester Institution are now informed in writing of the disclosure of confidential psychiatric information to non-medical staff, either before or immediately upon their arrival at the establishment.

151. The CPT has also raised certain issues concerning the medical treatment of sex offenders held at the Herstedvester Institution. Following an exchange of views with the Danish authorities on this subject, the Committee has asked to receive confirmation that the signed consent of patients is now being obtained prior to the commencement of treatment with libido-suppressing drugs, and that such persons are being given a detailed explanation (including in writing) of all recognised adverse effects of the drugs concerned.

The CPT has also stressed that ensuring that patients' consent to medical treatment is genuinely free and informed is a particularly acute issue in establishments in which patients constitute a "captive" group. It has asked to be informed of whether any additional safeguards (e.g. the support of a system of lay/legal advocates) exist to ensure that the consent given by prisoners to medical treatment is truly free and informed. Further, the CPT has requested information on whether treatment with libido-suppressing drugs is subject to regular evaluation by an appropriate, external medical authority.

152. The Committee has made a number of recommendations, comments and requests for information on various other matters related to the CPT's mandate (contact with the outside world; segregation of prisoners for disciplinary or other reasons; reception procedures; complaints and inspection procedures; drug abuse; and the treatment of Greenlanders).

In particular, the CPT has recommended that a high priority be given to the adoption of measures designed to enhance the independence of the complaints procedures to which prisoners have access. The Committee has also welcomed the enlargement of the role of the Ombudsman to include the inspection of all prisons on a systematic basis.

**C. Action on the CPT's recommendations, comments and requests for information**

153. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

154. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Danish authorities:

- i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken;
- ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Danish authorities to provide in the above-mentioned interim report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

## **APPENDIX I**

### **SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **A. Police establishments**

##### **1. Torture and other forms of ill-treatment**

###### **recommendations**

- police officers to be reminded that no more force than is reasonably necessary is to be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them (paragraph 12);
- the Danish authorities to continue closely to monitor cases involving the application of "leg-lock" means of restraint, to ensure that they are not, on occasion, being applied by police officers in an over-zealous fashion (paragraph 13);
- police officers to be issued with instructions making clear that it is not acceptable to transport detained persons in the manner described in paragraph 14 (paragraph 14).

###### **requests for information**

- the outcome of the investigation into the case to which reference is made in paragraph 13 (paragraph 13);
- for 1995 and 1996:
  - the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
  - an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police, (paragraph 15);
- a copy of the National Police Commissioner's new Circular on the use of police dogs (paragraph 16).

##### **2. Conditions of detention in police establishments**

###### **recommendations**

- conditions of detention at Police Station No 1 in Copenhagen, and at the Police Headquarters in Århus, Esbjerg and Horsens to be reviewed, in the light of the remarks set out in paragraphs 19 to 23 (paragraph 24);
- appropriate steps to be taken to ensure that conditions of detention in all police establishments in Denmark meet the criteria indicated in paragraph 17 (paragraph 24).

### **3. Safeguards against ill-treatment of persons detained by the police**

#### **recommendations**

- the terms of the draft Circular on safeguards regarding the right of detained persons to notify a close relative or third party of their situation to be re-drawn, in the light of the remarks set out in paragraph 29 (paragraph 29);
- the terms of the draft Circular on safeguards regarding access to a lawyer to be re-drawn in the light of the remarks set out in paragraph 33 (paragraph 33);
- persons arrested by the police systematically to be given a form setting out their rights in a straightforward manner, at the very outset of their custody; that form to be available in different languages and the person concerned to be asked to certify that he has been informed of his rights (paragraph 41);
- the Danish authorities to draw up a code of practice for police interrogations dealing *inter alia* with the matters to which reference is made in paragraph 43 (paragraph 43).

#### **comments**

- reference to Ministerial Order No. 467 in the draft Circular on safeguards could well lead to detained persons being dissuaded from seeking to exercise their right of access to a lawyer (paragraph 35);
- the Danish authorities are invited to consider enlarging the terms of the draft Circular on safeguards, in order formally to provide that:
  - all medical examinations of persons in custody are to be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of sight of police officers;
  - the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the person in custody and his lawyer, (paragraph 39).

#### **requests for information**

- clarification of the circumstances in which, in terms of the draft Circular on safeguards, police officers would be entitled to conclude that it is not "practicable and reasonable" to respect a detainee's wish to contact a doctor of his/her own choice (paragraph 39);
- details of any measures taken to enhance police training on the conduct of interrogations (paragraph 42);
- information about the operation in practice of the new police complaints procedure and, in particular, a copy of the Chief Public Prosecutor's first annual report to Parliament on complaints against the police (paragraph 44);
- whether an independent person or body is empowered to make regular and unannounced inspection visits to places where persons are detained by the police (paragraph 45).

## **B. Prisons**

### **1. Torture and other forms of ill-treatment**

#### **recommendations**

- an external investigation to be carried out into the incident to which reference is made in paragraph 48 (paragraph 49);
- a thorough investigation to be carried out into the nature and scale of the problem of inter-prisoner violence at the Western Prison and Horsens State Prison (paragraph 53).

#### **comments**

- the prohibition of striking persons who have been brought under control applies equally in the penal as in the police sphere (paragraph 49);
- the Danish authorities are invited to devise a national strategy to address the problem of inter-prisoner violence, in the light of the remarks set out in paragraph 53 (paragraph 53).

#### **requests for information**

- for 1995 and 1996
  - the number of complaints of ill-treatment lodged against prison officers and the number of criminal/disciplinary proceedings initiated as a result of such complaints;
  - an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by prison officers, (paragraph 50).

### **2. Solitary confinement of remand prisoners by court order**

#### **recommendations**

- prosecutors to be reminded that they should only seek a placement in solitary confinement when this is strictly necessary in the interests of a particular criminal investigation;
- on every occasion when the question of whether to impose or prolong solitary confinement is raised before a court, the reasoned grounds for the decision which results to be recorded in writing;
- prisoners to be systematically informed in straightforward language of the reasons for their placement in judicially-ordered solitary confinement;
- in the context of each periodic review of the necessity to continue remand in custody, the necessity to continue a placement in solitary confinement to be fully considered as a separate issue, bearing in mind the general principle that all placements in solitary confinement should be as short as possible, (paragraph 59);

- steps to be taken without further delay to:
  - issue clear instructions to the police on the circumstances in which recourse may be made to prohibitions/restrictions upon remand prisoners' letters and visits;
  - require the police to state in writing the reasons for the imposition of such prohibitions/restrictions, (paragraph 60);
- in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters to be considered as a separate issue (paragraph 60);
- the Danish authorities to pursue their efforts to provide purposeful activities and appropriate human contact for persons in solitary confinement (paragraph 61).

#### **comments**

- the Danish authorities are invited to consider introducing a maximum limit on the total period for which a remand prisoner may be placed in solitary confinement (paragraph 59).

### **3. Conditions of detention in general**

#### **recommendations**

- a very high priority to be given to completing the scheduled renovation work at the Western Prison, and steps to be taken to ensure that the programme of ongoing maintenance of the cells is more closely geared to the degree of wear-and-tear to which they are now subjected (paragraph 65);
- steps to be taken to enhance the regime offered to prisoners at the Western Prison in Copenhagen, in the light of the remarks set out in paragraph 67 (paragraph 67);
- appropriate steps to be taken to ensure that all prisoners in solitary confinement at the Western Prison benefit from proper, daily, open-air exercise (paragraph 68);
- steps to be taken to refurbish the cells in the psychiatric ward of the Herstedvester Institution (paragraph 70);
- steps to be taken to enhance the regime offered to inmates at Esbjerg Local Jail, in the light of the remarks set out in paragraph 81 (paragraph 81);
- the on-going refurbishment of the main building at Horsens State Prison to be actively pursued and, in particular, steps to be taken without delay to renovate the disciplinary isolation unit (paragraph 85);
- the outdoor exercise facilities for remand prisoners at Horsens State Prison to be improved (paragraph 90);
- efforts to improve the regime at Horsens State Prison to be vigorously pursued, in the light of the remarks set out in paragraph 91 (paragraph 91).



**comments**

- cells of 8 m<sup>2</sup> provide only cramped living space for two persons (paragraph 78);
- at Esbjerg Local Jail, the delegation was concerned to note that a number of sharp tools had not been replaced on the wall-mounted "shadow board" in the woodworking shop (paragraph 79);
- the design of the receptacles offered to remand prisoners at Horsens State Prison - as an alternative to them leaving their cells at night to use a toilet facility - rendered them quite unsuitable for use by female prisoners (paragraph 87);
- the CPT trusts that, in due course, the proposal to install "three cells into two" sanitation at Horsens State Prison will be the subject of a detailed assessment by the Danish authorities; at this stage, the Committee wishes to make clear that it much prefers that system (which gives prisoners access to a lavatory in a separate sanitary annex) to so-called "simple sanitation" (in which a lavatory is placed inside each cell) (paragraph 88).

**requests for information**

- the comments of the Danish authorities on the complaints heard about the quality of food served to persons held in the psychiatric ward, the solitary confinement ward and the observation cells at the Herstedvester Institution (paragraph 71);
- the comments of the Danish authorities on the questions raised in paragraph 82 (paragraph 82).

**4. Health care services**

**recommendations**

- steps to be taken to increase the frequency of visits by a doctor to Esbjerg Local Jail (paragraph 95);
- consideration to be given to introducing a visiting psychological/psychiatric service at Esbjerg Local Jail (paragraph 101);
- all newly-arrived prisoners at Esbjerg Local Jail and Horsens State Prison to be medically screened on admission (paragraph 108).

**requests for information**

- whether the renovation of the health-care facilities at Horsens State Prison has now been completed (paragraph 96);
- further details about the in-service training programme in psychiatry for nursing staff at the Western Prison (paragraph 97);

- confirmation that compulsory psychiatric treatment in prisons is subject to specific safeguards, comparable to those which apply to voluntary patients in psychiatric wards (paragraph 100);
- confirmation that prisoners admitted to the Herstedvester Institution are now informed in writing of the disclosure of confidential psychiatric information to non-medical staff, either before or immediately upon their arrival at the establishment (paragraph 111);
- whether appropriate counselling is provided before HIV-screening of prisoners and if, in the case of a positive result, psychological support is guaranteed (paragraph 112);
- whether there is currently a policy for combatting transmissible diseases (in particular hepatitis, AIDS, tuberculosis and skin diseases) in places of detention (paragraph 112);
- confirmation that the signed consent of patients at the Herstedvester Institution is now being obtained prior to the commencement of treatment with libido-suppressing drugs, and that such persons are given a detailed explanation (including in writing) of all recognised adverse effects of the drugs concerned (paragraph 114);
- whether any additional safeguards (e.g. the support of a system of lay/legal "advocates") exist to ensure that the consent given by prisoners to medical treatment is truly free and informed (paragraph 115);
- whether the clinical value of using libido-suppressing drugs is currently subject to regular evaluation by an appropriate, external medical authority (paragraph 116).

## **5. Other issues related to the CPT's mandate**

### **recommendations**

- a high priority to be given to the adoption of measures designed to enhance the independence of the complaints procedures to which prisoners have access (paragraph 126).

### **comments**

- there is a need for a degree of flexibility in applying the rules on visits to prisoners whose families live some considerable distance away (for example, by allowing them to accumulate their visiting entitlement) (paragraph 118);
- granting extended unsupervised visits to enable prisoners to maintain family and personal (including sexual) relations is a constructive measure, provided such visits take place under conditions which respect human dignity (paragraph 118);
- the Danish authorities are invited to take steps to ensure that the written information provided to prisoners on reception at Esbjerg Local Jail is made available in a wider range of the languages most commonly spoken by prisoners (paragraph 124);
- the steps taken by the Danish authorities to improve the situation of Greenlandic prisoners held at the Herstedvester Institution are to be welcomed; however, there can be no doubt that the present system has a number of undesirable effects which could be avoided if such prisoners were able to serve their sentences in Greenland (paragraph 132).

**requests for information**

- the comments of the Danish authorities on the issue raised in paragraph 119 (paragraph 119);
- the legislative progress being made in respect of the enhancement of the independence of complaints procedures to which prisoners have access (paragraph 126);
- copies of the Ombudsman's reports on his visits to prisons (paragraph 127);
- copies of future reports produced by the Internal Inspection of the Department of Prisons and Probation (paragraph 128);
- the comments of the Danish authorities on the drug abuse issues to which reference is made in paragraph 130 (paragraph 130);
- the progress being made by the Greenlandic Legal System Commission, together with information on any other developments in the area of treatment of Greenlanders (paragraph 132).



## **APPENDIX II**

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

#### **A. National authorities**

##### Ministry of Foreign Affairs

Mr Hans Klingenberg                      Head of Division

##### Ministry of Justice

Mr Michael Lunn                              Permanent Secretary of State for Justice  
Mr Poul Dahl Jensen                        Chief Legal Advisor  
Mr Lars Bay Larsen                         Deputy Permanent Secretary of State for Justice  
Mr Johan Reimann                         Deputy Permanent Secretary of State for Justice

##### Department of Prisons and Probation

Mr Christian Trønning                      Director-General  
Mr William Rentzmann                     Deputy Director-General  
Mr Peter Kramp                              Psychiatric Consultant  
Ms Ilse Cohn                                 Internal Inspection of the Department of Prisons and Probation

##### National Commissioner of Police

Ms Marianne Gjedde-Nielsen             Assistant National Commissioner of Police

##### Copenhagen Police

Ms Hanne Beck Hensen                    Commissioner of the Copenhagen Police  
Mr Arne Stevens                            Deputy Commissioner of the Copenhagen Police

##### Other authorities

Mr Hans Gammeltoft-Hansen             Danish Parliamentary Ombudsman  
Ms Lisa Dietrich                            Judge, Head of Section I, Copenhagen City Court  
Mr Morten Engler                         Judge, Copenhagen City Court  
Mr Carsten Hjørth                         District Public Prosecutor for Copenhagen  
Ms Birgitte Vestberg                       District Public Prosecutor for Fyn

#### **B. Non-governmental organisations**

Danish Nurses' Association  
Dansk Retspolitisk Forening - Isolationsgruppen  
KRIM