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**Report to the Government of Denmark  
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 11 to 20 February 2008**

The Danish Government has requested the publication of this report.

Strasbourg, 25 September 2008



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

Mr Jens Færkel  
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Ministry of Foreign Affairs  
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Strasbourg, 24 July 2008

Dear Mr Færkel

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Denmark from 11 to 20 February 2008. The report was adopted by the CPT at its 66<sup>th</sup> meeting, held from 7 to 11 July 2008.

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

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

The CPT would ask, in the event of the response being forwarded in Danish, that it be accompanied by an English or French translation. It would also be most helpful if the Danish authorities could provide a copy of the response in a computer-readable form.

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

Yours sincerely

Mauro PALMA  
President of the European Committee for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment





## 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 11 to 20 February 2008. The visit formed part of the Committee's programme of periodic visits for 2008, and was the CPT's fourth periodic visit to Denmark.<sup>1</sup>

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

- Pétur HAUSSON, Head of delegation
- Gergely FLIEGAUF
- Ivan JANKOVIĆ
- Birgit LIE

who were supported by the following members of the CPT's Secretariat:

- Petya NESTOROVA, Head of Division
- Kristian BARTHOLIN.

They were assisted by:

- James McMANUS, Professor of Criminal Justice at Glasgow Caledonian University, United Kingdom (expert)
- Tatiana SIMMINS, psychiatrist, former Senior Registrar at the Medical Services of Champ-Dollon Prison, Switzerland (expert)
- Mette AARSLEW (interpreter)
- Jørgen ENGRAF (interpreter)
- Thomas HARDER (interpreter)
- Jan Als JOHANSEN (interpreter)
- Annette LASSEN (interpreter).

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<sup>1</sup> The previous visits took place in December 1990, September/October 1996 and January/February 2002.

**B. Establishments visited**

3. The delegation visited the following places:

Police establishments

- City Police Station (Copenhagen)
- Bellahøj Police Station (Copenhagen)
- Copenhagen International Airport Police Station (Kastrup)
- Odense Police Station (Funen)
- Horsens Police Station (East Jutland)

Prisons

- The Western Prison (Copenhagen)
- Copenhagen Police Headquarters Prison
- East Jutland State Prison (Horsens)
- Nyborg State Prison (Funen)
- Herstedvester Establishment (Greater Copenhagen Area)

Establishments for foreign nationals detained under aliens legislation

- Ellebæk Prison and Probation Service Establishment for Asylum-seekers and others deprived of their liberty

Establishments for the detention of minors and juveniles

- Bakkegården Secure Department (Nykøbing Sjælland)
- Sønderbro Secure Department (Copenhagen)

Psychiatric establishments

- Nykøbing Sjælland Psychiatric Hospital (Secure Department “Sikringen”)
- Bispebjerg Hospital (Psychiatric Department E).

**C. Co-operation between the CPT and the Danish authorities**

4. In the course of the visit, the CPT's delegation held consultations with Lene ESPERSEN, Minister of Justice, Lars HJORTNÆS, Deputy Permanent Secretary of State at the Ministry of Justice, Mogens HENDRIKSEN and Hans-Viggo JENSEN, Deputy National Commissioners of the Danish National Police, William RENTZMANN, Director General of the Danish Prison and Probation Service, and Annette GJERRIS, Director General of the Psychiatry Department at the Regional Council of the Capital Region of Denmark. The delegation also had in-depth discussions with Hans GAMMELTOFT-HANSEN, the Parliamentary Ombudsman.

Further, meetings were held with representatives of non-governmental organisations active in areas of concern to the CPT.

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

5. As had been the case during previous CPT visits to Denmark, the co-operation received both from the national authorities and from staff at the establishments visited was of an excellent standard. The Committee's delegation enjoyed rapid access to all the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, it was provided with all the necessary documentation, and additional requests for information made during the visit were promptly met. It was clear that information on the CPT's mandate and, where pertinent, extracts from the Committee's previous visit reports had been circulated to relevant staff.

At the end of the visit, the delegation met senior Government officials and acquainted them with the main facts found during the visit. The delegation's preliminary observations were subsequently communicated to the Danish authorities by letter of 12 March 2008. By letter of 13 May 2008, the Danish authorities provided detailed reactions to these observations and some additional information. These reactions and information will be considered later in the report. Nevertheless, the Committee would like to welcome already at this juncture the constructive spirit in which the Danish authorities took note of and reacted to its delegation's observations.

More generally, the CPT wishes to express its appreciation for the assistance provided to its delegation both during and after the visit by the liaison officer designated by the Danish authorities, Lars Solskov LIND of the Ministry of Justice.

6. The principle of co-operation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's key recommendations. The delegation's findings during the 2008 visit suggest that such action has not been taken in certain areas which have given rise to serious concerns by the CPT in the past, in particular as regards the practice of prolonged application of mechanical restraints on psychiatric patients.

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



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

### A. Police establishments

#### 1. Preliminary remarks

7. The legal provisions governing the detention of criminal suspects by the police have been summarised in the 2002 visit report.<sup>2</sup> It should be recalled that detained criminal suspects must be brought before a judge within 24 hours and that the judge may extend police custody for a further 72 hours.<sup>3</sup> However, in practice, police custody tends to be very short (usually no longer than eight hours) and criminal suspects detained for more than 24 hours are accommodated in a local jail or prison. Further, foreign nationals detained under the provisions of the Aliens Act can be held in custody under the sole authority of the police for a maximum of 72 hours.<sup>4</sup>

Since the CPT's previous visit in 2002, the legal framework pertaining to deprivation of liberty by the police has been supplemented by the adoption in 2004 of the Police Act.<sup>5</sup> This Act stipulates the powers of the police in general and regulates police activities in cases other than criminal prosecution. Pursuant to it, the police may administratively detain for a maximum of 6 hours a person who endangers public order, peace and security.<sup>6</sup> If it is necessary to detain a person who is unable to look after him/herself due to intoxication, illness or other handicap, the deprivation of liberty should be "as brief and considerate as possible".<sup>7</sup> Intoxicated children under the age of 12 may not be detained in a police cell and, if they are aged between 12 and 14, the police detention period must be as brief as possible and in principle should not exceed 4 hours. Several supplementary orders have been issued following the entry into force of the Police Act, in particular concerning the custody of intoxicated persons<sup>8</sup> and the use of forcible means<sup>9</sup>.

8. At the time of the 2008 visit, the Danish National Police was in the process of undergoing a comprehensive reform which had started on 1 January 2007 and involved the reorganisation of police districts and the closing down of a number of police cells. According to statistical information provided to the delegation, the number of persons placed in police custody seems to have fallen significantly over the past 15 years, primarily due to the fact that the police have been taking intoxicated persons more frequently to their homes.

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<sup>2</sup> See paragraph 6 of CPT/Inf (2002) 18.

<sup>3</sup> See Article 71 of the Danish Constitution and Section 760 of the Administration of Justice (Consolidation) Act No. 1261 of 23 October 2007.

<sup>4</sup> See Sections 36 and 37 of the Aliens (Consolidation) Act No. 945 of 1 September 2006.

<sup>5</sup> Act No. 444 of 9 June 2004.

<sup>6</sup> See Sections 5(3), 8(3) and 9(3) of the Police Act.

<sup>7</sup> See Sections 10(4) and 11(4) of the Police Act.

<sup>8</sup> Order No. 988 of 6 October 2004 and Instruction of the Danish National Police of 2 February 2006.

<sup>9</sup> Order No. 978 of 21 September 2004.

## 2. Ill-treatment

9. The great majority of the persons met by the CPT's delegation in the course of the 2008 visit who were, or had recently been, detained by the police, indicated that they had been correctly treated, both at the time of apprehension and during questioning by the police. That said, several persons complained of excessive use of force at the time of apprehension, even though they apparently had not offered resistance. For example, a juvenile alleged that he had been thrown onto the floor of a car and a police officer had pinned him down in this position by placing a foot on his neck. Two other persons alleged having been pulled to the floor at the time of their arrest, with guns held to their head and their arms twisted behind their back. In addition, a number of persons complained of tight handcuffing and of being handcuffed behind their back during transportation (which in some cases had lasted several hours); in this connection, certain persons seen by the delegation bore marks around their wrists consistent with having been handcuffed too tightly.

It should also be noted that some detained persons of foreign origin or of non-Danish ethnicity alleged verbal abuse with xenophobic or racist connotations by police officers who had apprehended them.

10. In response to the preliminary observations made by the CPT's delegation at the end of the 2008 visit, the Danish authorities provided updated information on the issue of police training. According to this information, the use of force is an essential theme in the basic training programme which lasts three years. In training sessions, special emphasis is said to be placed on the provisions of the 2004 Police Act, which regulates the use of force by police officers and stipulates that they may use force only if necessary and justified and only by such means and to such an extent as is reasonable with regard to the interest which the police are seeking to protect. Further, the use of handcuffs reportedly forms a special part of the training, it being underscored by trainers that police officers must ensure that handcuffs are not too tight and that during transportation they cause the least possible inconvenience to the arrested person.

The 2004 Police Act contains detailed provisions on the use of firearms, truncheons, dogs and gas by the police. As regards in particular the use of dogs, which has been a matter of concern to the CPT in the past<sup>10</sup>, the statistics provided by the Danish National Police indicate a decrease in the total number of incidents as well as the number of persons injured as a result.<sup>11</sup> This can be attributed to the detailed guidance issued on the use of dogs and the increased attention paid to the training of dog handlers and the testing of police dogs. The use of the so-called "manual leg lock" restraint technique is also the subject of detailed instruction.<sup>12</sup> More generally, police training in self-defence holds and techniques has been the subject of a recent review conducted in 2007.

Further, according to information provided by the Danish National Police, the subject of police ethics - which forms part of the basic training curriculum - pays particular attention to the manner in which police officers interact with persons of non-Danish ethnicity, including ways of communication. This issue has been the subject of two recent studies of police interaction with youths from ethnic minorities. The studies' recommendations have been included in the training curriculum, which among other things underlines the unacceptability of using racist expressions.

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<sup>10</sup> See paragraph 16 of CPT/Inf (97) 4.

<sup>11</sup> The number of incidents resulting in personal injuries: 134 in 2004, 73 in 2005 and 95 in 2006; the number of open-wound injuries out of the total number of personal injuries: 44 in 2004, 36 in 2005 and 34 in 2006.

<sup>12</sup> It should be recalled that the so-called "fixated leg lock" technique was discontinued in 1994.

11. The CPT welcomes the action taken by the Danish authorities to provide appropriate guidance and training to police officers with a view to preventing ill-treatment. At the same time, **it is clear that the authorities must remain vigilant and continue to remind police officers that no more force than is strictly necessary should be used when effecting an arrest and transporting a detained person. In this context, the Committee trusts that the Danish authorities will continue closely to monitor cases involving the use of dogs and the application of "manual leg lock" means of restraint, to ensure that they are being applied by police officers in a necessary, justifiable and proportional manner, and with a view to further reducing the number of incidents and injuries. As regards handcuffing during transportation, it should be resorted to only when the risk assessment in the individual case clearly warrants it and be done in a way that minimises any risk of injury to the detained person.**

**Further, the Committee would like to receive more detailed information on the recommendations of the above-mentioned studies of police interaction with youths from ethnic minorities, and the steps taken to ensure their implementation.**

12. It is also axiomatic that all complaints or other indications of ill-treatment should be thoroughly investigated and any perpetrators appropriately punished. The system for the investigation of complaints about the conduct of police officers which was put in place in 1996<sup>13</sup> has in recent years come under scrutiny, and its independence and effectiveness have been questioned.<sup>14</sup> The CPT understands that the Danish Government has set up a broad-based committee to review and evaluate the current system for handling complaints against the police and processing criminal cases against police officers. The report of the committee is expected by mid-2008. **The CPT would like to be informed of the conclusions of this report.**

Further, in order for the Committee to obtain a complete picture of the current situation, **the CPT would like to receive the following information in respect of 2006 and 2007:**

- **the number of complaints of ill-treatment made against police officers, with a breakdown into types of ill-treatment alleged;**
- **the number of criminal and disciplinary proceedings instituted as a result of these complaints;**
- **an account of criminal and disciplinary sanctions imposed.**

13. As previously stressed by the CPT, systems for the inspection of police detention facilities by an independent authority are capable of making an important contribution towards the prevention of ill-treatment and, more generally, of ensuring satisfactory conditions of detention. The Danish Parliamentary Ombudsman, who is empowered to inspect places of deprivation of liberty, carried out 82 visits to police detention cells and 36 visits to police waiting rooms in the period from 1997 to March 2007. These inspections have resulted in a number of recommendations to the Commissioner of Police. The methodology followed during inspections ensures that both planned and unannounced visits are carried out, and that detained persons are interviewed in private. The CPT welcomes this approach.

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<sup>13</sup> See paragraph 44 of CPT/Inf (97) 4.

<sup>14</sup> See report by Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Denmark, 13 to 16 April 2004 (CommDH(2004)12), and Memorandum to the Danish Government, 11 July 2007 (CommDH(2007)11).

### 3. Safeguards against the ill-treatment of persons deprived of their liberty

14. The CPT recalls that it attaches particular importance to the formal safeguards against ill-treatment which are offered to persons deprived of their liberty by the police, in particular the rights of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor. As the Committee has repeatedly stressed, these are fundamental rights which should be guaranteed to all categories of persons from the very outset of their deprivation of liberty (that is, from the moment when the persons concerned are obliged to remain with the police).

15. In response to the CPT's previous recommendations designed to reinforce the above-mentioned safeguards, the Ministry of Justice has issued instructions to the police and the prosecution service, the most recent of which are contained in a Circular of 12 June 2001. This circular, already discussed in the 2002 visit report, provides detailed rules and procedures to be followed by the police with regard to the rights of detained persons to inform their next-of-kin about the arrest, to contact a lawyer and to have access to medical assistance. Nevertheless, despite the fact that the circular has been in operation for six and a half years, the findings from the 2008 visit suggest that its instructions are still not being applied systematically by the police and, as a result, the safeguards advocated by the CPT are not wholly effective in practice.

Following the 2008 visit, the Ministry of Justice informed the CPT of its intention to scrutinise the Circular of 12 June 2001 with a view to issuing an updated circular. **The Committee considers that this should be used as an opportunity to give a firmer legal basis to the provisions relating to the above-mentioned fundamental safeguards, by integrating them into relevant laws; this would be in the interests of both the prevention of ill-treatment and the protection of the police against false accusations.**

16. As regards notification of custody, the Ministry of Justice Circular of 12 June 2001 stipulates that the police must give detained persons the opportunity personally to inform their relatives or relevant third parties of their situation without undue delay; however, police officers also have unfettered discretion to delay notification of custody, if it is deemed that it may obstruct the investigation.

A number of detained persons (including juveniles) interviewed by the delegation during the 2008 visit complained that they had not been allowed to contact their relatives in person and did not know whether the police had informed them of the fact of their detention. Further, the delegation noted that police detention reports sometimes omitted to mention whether notification of custody had taken place.

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



**Further, it would be desirable for detained persons to be provided with feedback on whether it had been possible to notify a close relative or other person of the fact of their detention.**

17. Concerning the right of access to a lawyer,<sup>15</sup> a number of detained persons met during the visit indicated that they had not been expressly informed of this right and that their requests to contact a lawyer and have him present during questioning had been ignored. Some allegations were again heard of police officers trying to dissuade detained persons from exercising their right to a lawyer, by stating that this was only necessary in the case of serious offences and/or by stressing the potential liability concerning legal costs. The majority of the detained persons interviewed by the delegation indicated that the first time they had met a lawyer was in court, when the application of the measure of remand custody was being decided.

As regards in particular persons detained under the Aliens Act, the delegation interviewed a number who had been detained in accordance with Section 37 of that Act (i.e. under the sole authority of the police for up to 72 hours) and who complained that they had not been placed in a position to consult a lawyer. In fact, pursuant to that section, a foreign national should be assigned a lawyer only when first brought before the court.

**The CPT reiterates its recommendations that:**

- **steps be taken to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of custody;**
- **persons detained under the Aliens Act be guaranteed a right of access to a lawyer as from the very outset of their custody;**
- **police officers be firmly reminded that they should not seek to dissuade detained persons from exercising their right of access to a lawyer.**

18. The delegation met several persons at the Western Prison who were being held in accordance with Section 37 of the Aliens Act, but who were in fact being detained on criminal charges (sometimes of a very serious nature). These persons were effectively deprived of legal advice for the first 72 hours of their custody, which appears to be an abuse of procedure. **The CPT would like to receive the comments of the Danish authorities on this issue.**

19. Turning to access to a doctor, the 2008 visit did not bring to light any particular problems in the exercise of this right. Upon arrival at the police station, the duty officer assessed the detained person's state of health and, if it seemed necessary, called in a doctor from the local medical centre. Further, pursuant to the Ministry of Justice Circular of 20 June 2001, detained persons were entitled to request to be seen by a doctor and could in principle receive visits by doctors of their own choice; no complaints were heard in this respect.

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<sup>15</sup> This right is laid down in Section 730 of the Administration of Justice Act and further spelt out in the Ministry of Justice Circular of 12 June 2001. It involves, *inter alia*, the rights to have the lawyer present during questioning and to consult with the lawyer in private.

Further, the revised Announcement A II No. 55 of 27 June 2002 concerning the placement of intoxicated persons in a detention cell contains detailed rules on their treatment by the police, including medical assistance and supervision. Pursuant to that Announcement, a doctor should examine the detained intoxicated person with a view to clarifying whether he/she requires hospitalisation or may be temporarily placed in detention until sober.

In their response to the 2002 visit report, the Danish authorities indicated that, pursuant to the Ministry of Justice Circular of 12 June 2001, a detained person “should as far as practicable have access to a medical examination without the presence of the police if the detainee so requests, and provided it is considered to be appropriate in terms of security”. The CPT would emphasise that the police should only be present during medical examinations of detained persons exceptionally and only on the basis of security considerations. The police officers concerned should when appropriate fully apprise the doctor of any relevant prior behaviour on the part of the detained person. It is then for the doctor, not the police, to judge the potential danger involved and whether it justifies the medical examination exceptionally being conducted within the sight of police officers. **The CPT recommends that the Danish authorities take steps to bring the relevant regulations and practice into line with the above considerations.**

20. As for information on rights, the delegation was pleased to note the presence of information sheets (“Guidelines for persons under arrest”), in a range of languages, at the police establishments visited (with the exception of Horsens Police Station). The Ministry of Justice Circular of 12 June 2001 provides that a copy of the guidelines must always be given to detained persons, and that compliance with this rule is to be recorded in the custody report or register or by a note in the day report. However, a number of persons met by the delegation who had recently been in police custody indicated that they had not been clearly informed of their rights and, more particularly, had not been given a copy of the guidelines. These allegations were difficult to check due to the lack of recording of the fact that an information sheet had been given out to or refused by the detained person.

It is clear from the above that further steps are necessary to ensure that written information on the rights of persons deprived of their liberty by the police be systematically given to all such persons as from the very outset of their deprivation of liberty. In their response to the 2002 visit report, the Danish authorities stated that they did not find it expedient to accede to the CPT’s recommendation that detained persons be asked to certify with their signature that they have been informed of their rights. The Committee must beg to differ; in its view, such a requirement would contribute to ensuring that information on rights is always provided, as well as protecting the police from false accusations. Consequently, **the CPT reiterates its recommendation that a specific record be kept of the fact that detained persons have been provided with information on their rights; detained persons should be asked to certify with their signature that such information has been provided and, if necessary, the absence of a signature in a given case should be explained.**

21. The electronic (i.e. audio and/or video) recording of police interviews represents an important additional safeguard against the ill-treatment of detainees. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of police interviews also reduces the opportunity for defendants to later falsely deny that they have made certain admissions. Consequently, **the CPT invites the Danish to reconsider introducing electronic recording of police interviews.**

#### 4. Conditions of detention

22. In the report on the 2002 visit, the CPT noted that, on the whole, conditions of detention at the police stations visited met the Committee's criteria set out in previous visit reports.<sup>16</sup> This observation was generally confirmed by the delegation's findings from the 2008 visit. Material conditions in the detention cells (used for administrative detainees, usually intoxicated persons) and waiting rooms (used for criminal suspects) at the police establishments visited in Copenhagen, Horsens and Odense were generally acceptable for the duration of police custody, which, according to the custody records examined by the delegation, rarely exceeded 8 hours. The cells, intended for single use, measured between 5 m<sup>2</sup> and 8 m<sup>2</sup>. The delegation was pleased to note that the criticism made by the CPT in the past concerning the two very small waiting rooms at the Criminal Investigation Department of Horsens Police Station had been addressed (i.e. the two rooms had been joined into one, measuring some 5 m<sup>2</sup>).

Some of the cells had access to natural light, and artificial lighting and ventilation were of an adequate standard. The cells used for intoxicated persons had a mattress placed on the floor and CCTV and audio coverage, and all cells were fitted with a call bell.

However, given the configuration of waiting rooms in police establishments in general (which are usually without access to natural light and are equipped only with a narrow bench and, occasionally, a blanket), their use should be limited to short waiting periods; if a criminal suspect is held overnight, he/she should be placed in a proper detention cell and provided with a mattress and blankets. In response to the preliminary observations made by the CPT's delegation at the end of the 2008 visit, the Danish authorities confirmed that police waiting rooms are only intended to be used for short periods and that in practice other solutions are found if a criminal suspect is held for a longer period or overnight.

23. As regards sanitary arrangements, **the delegation received some complaints from detained persons concerning long waiting periods before being allowed to use a toilet (e.g. at Glostrup Police station).**

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<sup>16</sup> See paragraph 17 of CPT/Inf(97) 4.

## **B. Prisons**

### **1. Preliminary remarks**

24. In the course of the 2008 visit, the CPT's delegation visited for the first time the newly constructed East Jutland State Prison. It also paid follow-up visits to the Western Prison and the Police Headquarters Prison in Copenhagen (those establishments having been visited during the 1990 and 1996 visits), as well as to Nyborg State Prison (previously visited in 1990).

Further, a targeted follow-up visit was carried out to the Herstedvester Institution (which had been the subject of CPT visits in 1990 and 1996) in order to examine the treatment of sexual offenders receiving anti-hormone therapy and the situation of prisoners from Greenland. This establishment will be dealt with in a separate section (B.9).

### **2. Ill-treatment**

25. The delegation heard no allegations of deliberate physical ill-treatment of prisoners by staff in the prisons visited. On the contrary, most prisoners spoke favourably of the way in which they were being treated by prison staff, and the delegation observed for itself that relations between prisoners and staff were quite relaxed.

That said, at *East Jutland Prison*, the delegation received some allegations of prison officers using excessive force when controlling and placing prisoners in a security cell. In their response to the delegation's preliminary observations, the Danish authorities stated that the Prisons and Probation Department is currently investigating whether unnecessary force was applied in one particular case of confinement in a security cell at the prison in question in November 2007. **The CPT would like to be informed of the outcome of this investigation.**

Further, it appeared that in the months following the opening of the new establishment, there had been some tensions between staff and management, as well as between different groups of staff, linked to initial problems with the new technology and security procedures as well as changes in the role of staff.<sup>17</sup> The staff's response had been to confine prisoners to their units and make little use of the spacious grounds. That had led to resentment amongst prisoners, who felt that the promised regime activities had not been provided. At the time of the CPT's visit, staff were beginning to feel more comfortable in the new prison and were beginning to allow prisoners more freedom to use the available facilities. However, the delegation's observations suggest that there remains room for improvement. **The CPT trusts that the management of East Jutland State Prison will make use of all means at its disposal to ensure that constructive staff-inmate relations prevail at the establishment. This will involve, *inter alia*, the regular presence of prison managers in the detention areas, their direct contact with prisoners, and investigating complaints made by prisoners.**

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<sup>17</sup> Inmates in most parts of the new prison had their own cell keys and, with showers and toilets in-cell, had little need to summon staff for assistance. In the words of one union representative, staff suffered "anomie" – they did not know what their role was anymore.

26. At *Nyborg State Prison*, a few prisoners of non-Danish ethnicity alleged having been pushed and provoked by staff (which they perceived as a reaction to their ethnic origin). The delegation was pleased to learn of steps taken to offer staff training on ethnic issues. **The CPT considers that this merits further development and formalisation in a race relations monitoring committee in each prison, which would allow the issue to be tackled strategically.**

Further, a few prisoners interviewed at the *Western Prison* and *East Jutland State Prison* alleged that certain members of custodial staff had behaved towards them in a disrespectful way and had made remarks with xenophobic or racist connotations. **The CPT recommends that staff at the Western Prison and East Jutland State Prison be reminded that they must always treat prisoners in their custody with respect.**

27. A number of prisoners met during the visit complained that they had been handcuffed behind the back during transportation to court or another prison in a manner which was painful and left marks on their wrists. It would appear from statistical information provided by the Danish authorities that the use of handcuffs and transportation belts during prisoners' transportation outside and within prisons has increased over the years (from a total of 1,484 cases in 2005, to 2,566 cases in 2007). At the same time, the Danish authorities stated that the Copenhagen Prisons have endeavoured to perform a more detailed and structured assessment of the escape risk in each case.

**The CPT recommends that the Danish authorities ensure that the use of handcuffs and transportation belts during prisoners' transportation outside and within prisons is done only when the risk assessment in the individual case clearly warrants it and in a way that minimises any risk of injury to the prisoner. As regards in particular the handcuffing of prisoners behind the back during transportation, given the potential for discomfort to the prisoner concerned and the risk of injury in case of accident, this practice should be avoided; prisoners should be transported instead in secure vans, thereby obviating the need for them to be handcuffed during the journey.**

28. Most prisoners at the *Police Headquarters Prison in Copenhagen* made no complaints about their treatment by staff. However, it should be noted that a number of prisoners alleged that staff had delayed their access to the toilet, in particular at night, which had compelled them to defecate in plastic bags in the cells; if true, such a situation could be considered as degrading treatment.

After the visit, the Danish authorities indicated that in March 2007, the Prison and Probation Service ordered an immediate stop to the practice of using urine bottles, chamber pots and the like in cells occupied by more than one prisoner. It appeared from a consultation among prisons carried out in March 2007 that inmates might risk having to wait for up to twenty minutes before being taken to the toilet, especially if there were several cell calls at the same time; however, the typical waiting time was between two and ten minutes. As regards in particular the Police Headquarters Prison, it was acknowledged that delays might occur, especially in the case of inmates who have exhibited threatening or violent behaviour and may require special security staffing; if such an inmate makes a call at night, security considerations require the presence of more than three officers, which means that more than ten minutes may elapse before the inmate is taken to the toilet.

**The CPT recommends that all appropriate steps be taken to ensure that prisoners at the Police Headquarters Prison in Copenhagen have ready access to a proper toilet facility at any time of the day or night.**

### 3. Inter-prisoner violence and intimidation

29. Inter-prisoner violence and intimidation has been an issue of concern for the CPT during its previous visits to Denmark.<sup>18</sup> This problem remains high on the agenda of the Danish Prison and Probation Service. It has been reflected in the adoption of a series of measures over the last ten years, such as the setting up of special units for “negatively strong” inmates, as a response to organised groups of criminals seen to be exerting a highly negative influence on other prisoners, as well as units for prisoners seeking protection from other inmates (vulnerable prisoners) and high-security units for dangerous/disruptive prisoners. Further, a new violence prevention programme was launched in 2004.

The information received and observations made during the 2008 visit suggest that the efforts made by the Danish authorities are bearing fruit and the phenomenon of inter-prisoner violence is on the decrease. It was the general opinion that the establishment of special units and the emphasis placed on dynamic security had led to better control in the prisons. For example, at East Jutland State Prison, the delegation was informed that in 2007, there had been only 15 recorded instances of violence or threats to use violence between inmates. At Nyborg State Prison, there had been 13 such cases between 1 January 2007 and 18 February 2008.

The CPT welcomes the steps taken by the Danish authorities to prevent inter-prisoner violence. **The Committee wishes to stress that, while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the Danish authorities should seek to surround the segregation of disruptive/dangerous prisoners and inmates isolated for their own protection with appropriate safeguards, and should strive to minimise the deleterious effects of such segregation.** This subject will be dealt with in the following section of the report.

### 4. Prisoners subject to special regimes

30. The delegation which carried out the 2008 visit focused on the treatment of prisoners held in special units for “negatively strong” and disruptive/dangerous prisoners at East Jutland and Nyborg State Prisons. Further, it visited the Police Headquarters Prison in Copenhagen, which specialises in the holding of prisoners subject to special regimes. Attention was also paid to the situation of prisoners who have sought voluntary isolation.

- a. units for “negatively strong” prisoners

31. *East Jutland State Prison* had two units for “negatively strong” prisoners: a 16-cell unit for members of the Hells Angels gang (with 14 prisoners being held at the time of the visit), and an 8-bed unit for members of the Bikers gang (accommodating 3 inmates). Material conditions in the Building E which contained these units were excellent (as in the rest of the East Jutland Prison, see paragraph 46).

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<sup>18</sup> See paragraphs 32 to 35 of CPT/Inf (2002) 18 and paragraph ... of CPT/Inf (97) 4.

In terms of regime, the two units for “negatively strong” prisoners were much like ordinary units, with prisoners unlocked throughout the day and having access, within their units, to all the types of activities normally available to other prisoners (workshops, gym, etc.). The main differences were the limited amount of outdoor space available to them, since access to the grounds was restricted, and not being allowed to attend church. Further, the fact that there were only three prisoners in the Bikers unit meant that they had limited possibilities for association.

32. *Nyborg State Prison* also had a unit for “negatively strong” prisoners which had effectively been divided into two separate units for two different gangs, the Black Cobra and the International Club. The units, located in the North Wing of the prison, had eight places each. At the time of the CPT’s visit, the first unit was holding 7 inmates, and the second one, 4. The individual cells, measuring some 12 m<sup>2</sup>, were slightly bigger than those elsewhere in the prison and offered good material conditions.

Each unit had its own multi-purpose gym, hobby room and classroom with computers, as well as a well-appointed kitchen where prisoners cooked their own food, a laundry and a shower area. However, there was little work available and prisoners alleged that they had been locked in their cells until 3.30 p.m. every day until a fortnight before the CPT’s visit.

33. As already noted, the establishment of units for “negatively strong” prisoners has led to better control in the prisons. However, with time the numbers in the original criminal groups in custody have fallen and the gangs no longer fill the space allocated to them. Meanwhile, new groups have emerged and some have been allocated their own units, but again the numbers are not always sufficient to fill the allotted space. With the current numbers in the “negatively strong” units seen at East Jutland and Nyborg Prisons, there is a danger of the regime becoming stultified and prisoners experiencing conditions akin to isolation.

In response to the preliminary observations made by the CPT’s delegation at the end of the visit, the Danish authorities stated that, in recent years, the number of “negatively strong” inmates, in particular those related to Bandidos and Hells Angels, had been on the decline. The Prison and Probation Service is closely following developments so that it can adapt the number of places for “negatively strong” inmates. For example, the two units for “negatively strong” inmates of the Copenhagen Prisons were temporarily closed from 1 December 2007 until 1 May 2008, and the unit at Vridsløselille State Prison was planned to close down on 1 May 2008 until further notice. Further, the existing units for “negatively strong” inmates had been used successfully for several different categories of such inmates, including inmates who were not affiliated to a particular gang.

The CPT acknowledges the difficulties in securing the co-operation of “negatively strong” prisoners with any programmes. Although the chances of (re)integrating these prisoners into normal regimes might be low, efforts to engage with them should never be abandoned. **The Committee invites the Danish authorities to seek to develop regimes in units for “negatively strong” prisoners and, in particular, to promote some resocialisation in the way of preparation for release. Continued efforts should be made to develop positive relations between staff and prisoners. Staff working in these units should be provided with additional training and encouraged to engage more with prisoners.**

**Further, as regards in particular East Jutland State Prison, the CPT recommends that the “negatively strong” prisoners be allowed access to the grassed areas outside their units, within the secure perimeter of Building E.**

34. A number of “negatively strong” prisoners complained about their placement decisions and the fact that it was very difficult, if not impossible, to be transferred to an ordinary prison location. Staff explained that most decisions were taken by the National Investigation Centre and prisoners remained in the unit throughout their sentence. Some prisoners could also be placed in the unit by decision of the prison management, because of being violent or persistently uncooperative, and in such cases, prison staff could work with them with a view to relocating them to the ordinary prison accommodation.

It should be noted that “negatively strong” prisoners had limited access to their files, which made it difficult for them to challenge decisions. As regards in particular prisoners in the Black Cobra unit of Nyborg State Prison, they complained of having been refused any access to their files, not just that it was simply restricted. Further, the delegation heard some complaints about lack of clarity as regards decisions concerning home leave and early release.

In view of the more restrictive nature of the regime and the higher degree of supervision to which “negatively strong” prisoners are subjected, the CPT considers that there is a need to introduce greater transparency in the process of placing prisoners in “negatively strong” units and to review their placement. **The Committee reiterates its recommendation that a decision to place a prisoner in a unit for “negatively strong” prisoners be reviewed at regular intervals. Further, prisoners should as far as possible have access to information concerning the reasons for their placement in a unit for “negatively strong” prisoners (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security) and should have the right to appeal to an outside authority (e.g. a court) against placement or extension of placement in such a unit.**

b. Police Headquarters Prison in Copenhagen

35. The Police Headquarters Prison in Copenhagen had been closed for a period and the opportunity was taken to restore it and make it suitable for the detention of “negatively strong” inmates. The establishment re-opened in October 2004 and has accommodation for 25 prisoners. At the time of the visit, it was holding 23 inmates (8 sentenced and 15 on remand). Although in principle intended for “negatively strong” prisoners, the establishment also accommodated other categories of inmates, including remand prisoners deemed to require special security measures and prisoners segregated for their own protection.



Remand prisoners were allocated to the Police Headquarters Prison by the police, acting on intelligence information to which the prisoners and prison staff were not allowed access. The delegation was informed that this was authorised under Paragraph 10 of the Executive Order for Remand and could not be challenged in court.<sup>19</sup> The length of stay could effectively cover the whole period of remand custody.<sup>20</sup>

As for sentenced prisoners, they were allocated by the Prison and Probation Service on the basis of requests from individual prisons in cases where an inmate had been consistently violent and aggressive. The initial period of stay was usually four months and placements were reviewed every three months, a few inmates reportedly returning to their original prisons.

Several prisoners interviewed by the delegation complained that they were not aware of the reasons for their allocation to the establishment and could therefore not challenge the decision on its merits. Further, although placements of sentenced prisoners were reviewed frequently, it was not clear to what extent the prisoner concerned was involved in the process.

36. All prisoners were accommodated in single cells (measuring some 8 m<sup>2</sup>) and equipped with a bed, desk, chair, wardrobe, fridge and TV set. Reference has already been made to complaints heard about access to the toilet (see paragraph 28). Further, the common shower and toilet facilities were run down and in a unhygienic state; in this connection, after the visit, the Danish authorities indicated that a renovation plan was in the process of being completed. As for food, there were widespread complaints about its quality.

The regime was very restrictive. Prisoners were allowed to associate for up to 4 hours a day with only one other prisoner, selected by the management after an initial observation period of three months. In terms of activities, there was little on offer. Outdoor exercise, in a rooftop enclosed area, with some cover against inclement weather and a bench, was provided for an hour every day, and there was also access to a small gymnasium three times per week for one hour. Some assembly work was available in the cells (e.g. making clothes pegs), but only eleven inmates were taking part in it at the time of the visit. Education, on a one-to-one basis, was also offered, but there was apparently a waiting list<sup>21</sup> and only nine inmates were benefiting from one to two hours of tuition per week. Further, a social worker, chaplain and imam were available upon request.

37. At present, the Police Headquarters Prison holds a mix of prisoners in terms of legal status and security and regime needs; however, they all seem to be treated identically. One way of enhancing the regime of prisoners segregated for their own protection might be to set up separate protection units (see also paragraph 40). Further, the placement process for remand prisoners is far from transparent and, while appreciating the need to protect some intelligence sources, the CPT considers that there should be a more robust system of accountability.

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<sup>19</sup> Only the Ombudsman can review these decisions, and staff and prisoners were not aware of any cases in which a decision had been overturned by the Ombudsman.

<sup>20</sup> One prisoner met at Nyborg State Prison indicated that he had been held on remand at the Police Headquarters Prison for 9 months.

<sup>21</sup> One prisoner indicated that he had been waiting for nearly three months.

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

**Further, the CPT recommends that the Danish authorities take steps to refurbish the shower and toilet facilities at the Police Headquarters Prison in Copenhagen, and to verify that the quality of the food provided to prisoners is satisfactory.**

c. high-security unit at East Jutland State Prison

38. East Jutland State Prison also had a high-security unit with 12 places, accommodating 8 prisoners.<sup>22</sup> It was located in the same building as the two units for “negatively strong” prisoners and, in terms of material conditions, did not differ much from the rest of the prisoner accommodation. Similarly to prisoners at the Police Headquarters Prison, inmates in the high security unit of East Jutland State Prison were under conditions akin to isolation. They could have an hour of cell association with one selected prisoner every day, and could also cook and eat with that prisoner. Work was available in workshops in the unit, but few prisoners appeared to take advantage of this opportunity. The delegation gained the impression that staff were making efforts to engage prisoners in activities and to encourage them to spend more time out of their cells.

The CPT considers that the existence of a satisfactory programme of activities is just as important - if not more so - in a high-security unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. Further, special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety.

**The Committee invites the Danish authorities to take the above considerations into account in the operation of the high-security unit at East Jutland State Prison. The same considerations apply *mutatis mutandis* to the Police Headquarters Prison in Copenhagen.**

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<sup>22</sup> The unit held a mix of prisoners: some were placed there for their own protection; others were isolated because of their persistent violent and disruptive behaviour; one was placed pursuant to Section 63(4) of the Law on the Enforcement of Sentences and was being moved between prisons due to repeated escape attempts.

39. It is axiomatic that prisoners should not be subject to a special security regime any longer than the risk they present makes necessary. This calls for regular reviews of placement decisions. Such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such assessment. Moreover, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will, *inter alia*, enable them to make effective use of avenues for challenging that measure.

Some of the prisoners in the high-security unit had spent a year or more there, apparently without any incidents, but were not aware if they had any chance of being moved to an ordinary prison location. As regards in particular one prisoner placed in accordance with Section 63(4) of the Law on the Enforcement of Sentences, the delegation was informed that staff working in the unit had recommended his transfer to the general prison, but that this had been blocked by the Prison and Probation Service. **The CPT would like to receive the comments of the Danish authorities on these matters.**

d. inmates seeking voluntary isolation

40. Despite the steps taken by the Danish authorities to counter inter-prisoner violence (see paragraph 29), there is a more or less steady number of inmates who voluntarily seek isolation. According to national statistics, the number of inmates voluntarily excluded from association was 286 in 2004, 313 in 2005, 300 in 2006 and 279 in 2007. For the Copenhagen Prisons alone, the numbers were 104 in 2004, 114 in 2005, 84 in 2006 and 99 in 2007.

At the time of the visit to the Western Prison, prisoners who had sought voluntary isolation were scattered around the establishment, but a large number of them were being accommodated in the hospital wing. The regime available to these prisoners was restricted, in some cases leading to effective cellular confinement for 23 hours per day. It was made clear to prisoners requesting exclusion from association that their regime would be restricted and they were encouraged to think carefully before seeking protection.

The number of prisoners in voluntary isolation at Nyborg State Prison had grown over the years (from 5 in 2004, to 23 in 2007). The establishment had a separate unit for such prisoners, with 12 cells, but because of higher demand, a number of cells in other parts of the prison were also being used for voluntary isolation. Conditions in the dedicated unit for voluntarily isolated prisoners were comparable to those in the rest of the establishment and were generally of a good standard. At the time of the visit, three of the prisoners in the unit were working in an assembly workshop, two were employed on cleaning duties, two were doing self-study, and five were not participating in any activities.

The CPT considers that there is need to develop an overall strategy for dealing with prisoners seeking voluntary isolation. Active steps should be taken to seek alternative solutions for such prisoners, and a national plan might provide better results than impromptu measures at the level of individual establishments. **The CPT recommends that the Danish authorities develop a national approach to address the issue of prisoners seeking isolation for their own protection.**

## 5. Solitary confinement of remand prisoners by court order and other restrictions

41. The issue of solitary confinement of remand prisoners by court order in the interest of the investigation has been central to the ongoing dialogue between the CPT and the Danish authorities. In the report on the 2002 visit, the CPT welcomed the entry into force of amendments to the Administration of Justice Act relating to the conditions under which solitary confinement of remand prisoners may be ordered by a court, and the duration of such confinement. At the same time, the Committee indicated that it would be desirable for the Administration of Justice Act to include a maximum limit for the duration of solitary confinement of remand prisoners by court order.<sup>23</sup>

In 2006, further amendments were made to the Administration of Justice Act, introducing stricter conditions for the use and duration of solitary confinement of remand prisoners.<sup>24</sup> The new legal provisions stipulate that demands for solitary confinement by the police should be presented to the court in writing and backed by evidence. In each case, the court should make an individual assessment of the need to hold a remand prisoner in solitary confinement, taking into account the particular strain resulting from this measure. The court should also consider whether a less coercive measure can be applied. If a person is below the age of 18, solitary confinement can only take place if prompted by the exceptional circumstances of the case. Further, the amendments introduce a progressive increase in the maximum duration of solitary confinement in relation to the seriousness of the offence with which the person is charged.<sup>25</sup> Court-ordered decisions to extend exceptionally solitary confinement over 8 weeks for adults, or over 4 weeks for persons under the age of 18, have to be endorsed by the Director of Public Prosecutions.

Further, pursuant to the Executive Order of the Ministry of Justice of 6 November 2003 on Remand in Custody (Custody Order), certain positive changes have been made to the regime applicable to remand prisoners placed in solitary confinement, with a view to counteracting the damaging effects of isolation. In particular, prisoners held in solitary confinement for more than 14 days must be offered regular consultations with a chaplain, psychologist, doctor or another professional as well as be provided with special access to individual tuition, work and other appropriate activities that may help to reduce the stress and risk of deterioration in their mental health. Moreover, remand prisoners held in solitary confinement are entitled to at least one visit of no less than one hour per week (as well as extended visits if practicable) and a TV set free-of-charge.

42. According to information provided by the Danish authorities, the new legal provisions, which entered into force on 1 January 2007, have led to a considerable reduction in the total number of solitary confinements of remand prisoners (from 475 in 2006, down to 277 in 2007). The average duration of such measures has apparently also diminished, only a few of them having exceeded eight weeks (55 in 2006 and 7 in 2007). Further, there has been no solitary confinement of persons under the age of 18 exceeding four weeks in either 2006 or 2007.

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<sup>23</sup> See paragraph 37 of CPT/Inf (2002) 18.

<sup>24</sup> See amendments to the Administration of Justice Act (Chapter 70), in force since 1 January 2007.

<sup>25</sup> If the charge brought against a person carries a sentence of less than 4 years' imprisonment, solitary confinement is limited to a maximum of 2 weeks. If the charge brought against a person can lead to a sentence of 4 to 6 years' imprisonment, the continuous solitary confinement is limited to a maximum of 4 weeks. If the charge brought against a person can lead to a sentence of more than 6 years' imprisonment, the continuous solitary confinement is limited to a maximum of 8 weeks. Exceptionally, the court may decide to prolong solitary confinement for longer than 8 weeks, provided that the charge brought against the person concerned can lead to a sentence of a minimum of 2 years' imprisonment.

At the time of the visit, there were 21 prisoners placed in court-ordered solitary confinement at the Western Prison (the longest period of isolation currently being just under eight weeks<sup>26</sup>), one at the Police Headquarters Prison, and none at East Jutland and Nyborg State Prisons. The delegation noted that efforts were being made at the Western Prison to diversify the restrictive regime applied to these prisoners by providing them with increased staff contact, access to individual tuition (some 10 prisoners benefited from weekly lessons) and other activities (e.g. gym, library, work in the cell). Nevertheless, several prisoners interviewed by the delegation complained about the limited range and duration of the activities offered to them. One prisoner in particular alleged that he had not been permitted to meet the imam working at the prison.

The CPT welcomes the progress made by the Danish authorities and **recommends that they make continued efforts to ensure that remand prisoners are only placed in solitary confinement in exceptional circumstances which are strictly limited to the actual requirements of the case. Further, the Committee recommends that the authorities pursue their efforts to provide remand prisoners placed in judicially-imposed solitary confinement with increased staff contact and access to tuition, work and other activities, in order to counteract the negative effects of being placed in solitary confinement.**

43. In previous visit reports, the CPT expressed strong reservations about the practice of police-imposed restrictions on remand prisoners' contacts with the outside world (such as supervised visits, withholding or monitoring of correspondence, and prohibition of telephone calls) and made several recommendations designed to ensure that the adoption of such measures is strictly proportionate to the needs of the criminal investigation.<sup>27</sup> The Committee's recommendations have not been implemented by the Danish authorities, who consider that the Administration of Justice Act already provides sufficient safeguards in this respect. In particular, in their response to the 2002 visit report, the authorities indicated that the considerations underlying the imposition of restrictions regarding visits and exchange of letters are generally the same as those underlying the use of remand custody; thus, if the court finds that there are sufficient reasons to uphold a verdict concerning detention, there will generally also be reasons to uphold control of letters and visits.

The above assumption is questionable and may lead to unacceptable situations; there is a risk that restrictions on remand prisoners' visits and correspondence will be applied more broadly than is required by the criminal investigation. The delegation which carried out the visit in 2008 was concerned by the high proportion of remand prisoners with restrictions imposed by the police, referred to as "B&B" inmates (some 50% of all prisoners at the Western Prison). The restrictions could be applied throughout the remand period, including any appeal and while awaiting sentence confirmation, which effectively meant that they could continue for over two years.

Furthermore, a number of remand prisoners alleged having been denied access to a telephone, except for calls to their lawyers. Given the principle that remand prisoners should only be subject to those restrictions which are necessary to secure the purpose of remand custody or the maintenance of order and security in the detention centre<sup>28</sup>, the alleged practice appears to be disproportionate.

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<sup>26</sup> However, according to information gathered during the visit to the Western Prison, one prisoner had spent 5 months and 10 days in isolation, which had apparently ended the day before the delegation's visit.

<sup>27</sup> See in particular paragraph 39 of CPT/Inf 2002) 18 and paragraph 60 of CPT/Inf (97) 4.

<sup>28</sup> See Section 770 of the Administration of Justice Act.

44. At the end of the 2008 visit, the delegation stressed that the use of police-imposed restrictions on remand prisoners' contacts with the outside world should be limited to the strict minimum necessary for investigation purposes. **The CPT calls upon the Danish authorities to implement without further delay its recommendations on the issue of police-imposed restrictions on remand prisoners' contacts with the outside world, namely:**

- **that the police be given detailed instructions as regards recourse to prohibitions/restrictions concerning prisoners' correspondence and visits;**
- **that there be an obligation to state the reasons in writing for any such measure;**
- **that, in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters be considered as a separate issue.**

**Further, the CPT recommends that the practice of prohibiting remand prisoners' access to a telephone be reviewed and made subject to the same safeguards as those referred to above in respect of correspondence and visits.**

## **6. Conditions of detention for prisoners in general**

### **a. East Jutland State Prison**

45. East Jutland State Prison is a newly constructed establishment, which was inaugurated in October 2006 and replaced Horsens State Prison.<sup>29</sup> Situated in the countryside some 20 km outside the town of Horsens, it covers an area of about 65 hectares. The establishment's design was based on the idea to build a "village prison", with scattered, low buildings toning down the institutional impression and a lot of space and facilities for prisoners within a highly secured perimeter.

Prisoner accommodation was provided in five buildings (A to E) with a total capacity of 228 places.<sup>30</sup> At the time of the visit, the establishment was holding 161 prisoners, of whom 5 were women.<sup>31</sup> All but one of the prisoners were sentenced. Foreign nationals constituted some 25% of the inmate population.

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<sup>29</sup> Horsens State Prison was visited by the CPT in 1996 and 2002.

<sup>30</sup> Buildings A to D each had 48 places, and the high-security Building E (holding "negatively strong" prisoners and other inmates segregated on security grounds or as a disciplinary measure) had 36 places. Each of the buildings could be subdivided in a variety of ways, providing smaller units for different categories of inmates and regime. At the time of the visit, Building A, which had the status of a "local jail" for remand prisoners, was closed due to lack of demand.

<sup>31</sup> Female prisoners could be held in separate units throughout the prison (at the time of the visit, they were being accommodated in a separate unit in Building D), but were allocated to work and education alongside male prisoners.

46. The delegation was impressed by the excellent material conditions provided at the establishment. Inmates were accommodated in single cells measuring 12.6 m<sup>2</sup> and equipped with a bed, table, chair, cupboards, TV, fridge and a fully-partitioned sanitary annexe (comprising a toilet, sink and shower). Access to natural light, artificial lighting, ventilation and heating in the cells were fully adequate. Plants, paintings and other works of art scattered around the detention buildings reduced the impression of a carceral environment.

A major feature of life for prisoners was cooking for themselves. Prisoners received a food allowance from the Ministry of Justice and could purchase food products from a supermarket on the prison premises. A well-equipped kitchen was provided for each group of six to twelve cells and inmates ate together in a pleasant dining area within their units, sometimes together with staff. Prisoners expressed their general appreciation of these arrangements, which were seen by staff as a crucial part of normalisation.

47. The prison had a range of modern, high-quality facilities for prisoners' work, education, treatment and leisure-time activities. Work was provided in a series of workshops (fitting and assembly work, carpentry, metal-work, upholstery, textiles, etc.) and also took the form of general maintenance, cleaning and gardening tasks. The educational offer comprised classes in preparatory adult education, Danish, mathematics, English, Danish as a foreign language, English for non-Danish speakers and self-study courses. Approximately 50 inmates were attending the school at the time of the visit. Further, the establishment provided a challenging programme of offence-related interventions (anger management, stress management, cognitive skills, and treatment for drug addiction).

Each unit had a computer room, facilities for billiards, table tennis and darts, and a small gym to which prisoners had access on a daily basis. In addition, there was a large gym intended for ball games (but which was apparently rarely used). Further, inmates had access to a "culture house" comprising a library, music room, church and prayer room for Muslims.

Outdoor exercise was available in each unit's own exercise area outside working hours. However, although inmates were also entitled to exercise on the prison's extensive grounds (which comprise a football pitch and a running track), the delegation observed few prisoners outside their units and heard complaints from inmates that they were not allowed to use the football pitch because of security considerations.

48. The delegation was informed that the target was to engage 90% of inmates in activities. However, a year and four months after the opening of the prison, this target had still not been achieved, due to start-up problems (e.g. the need to train staff to act as sports instructors), and delays in the commencement of some of the activities (e.g. the jewellery and leather workshops, the large gym). **The CPT encourages the management of East Jutland State Prison to make full use of the available facilities for prisoners' activities and to seek to engage more prisoners in them.**

b. Nyborg State Prison

49. Since the CPT's first visit to Nyborg State Prison in 1990, some extensions have been made to the establishment's original building dating back to 1913. As a result, the official capacity has increased to 231. At the time of the 2008 visit, the prison was accommodating 215 prisoners, including 8 on remand, 3 awaiting appeal or confirmation of their sentences, and 1 female prisoner under police arrest. Nyborg Prison is primarily a closed prison for male sentenced prisoners who have committed repeat offences, but also has a small "local jail" section intended for remand prisoners and inmates serving short-term sentences.

50. As was noted in the 1990 visit report, the prison had a congenial layout and provided satisfactory material conditions of detention. Each prisoner occupied a single cell which offered adequate conditions in terms of living space (some 8 m<sup>2</sup>) and equipment (a bed, table, chair, cupboards, fridge, TV set and wash basin). However, some of the cells seen by the delegation were dilapidated; it was reportedly intended that this failing would be addressed by the rolling refurbishment programme.

There were no in-cell toilets, but the delegation was informed that extra staff were on duty when cells were locked in order to enable prisoners to use the common toilet facilities in each unit. **However, some prisoners indicated that there were occasionally delays in obtaining access to a toilet.**

51. As in East Jutland Prison, prisoners cooked their own meals, with the exception of those excluded from association for various reasons. **A number of complaints were heard about the poor quality of the food provided to the latter category of prisoner.**

52. The prison provided a full regime of work, education and offender behaviour programmes. As regards work, there were impressive print and graphic workshops, a tailoring workshop producing prison staff uniforms, and several smaller assembly workshops. However, at the time of the visit, the workshops were not fully operational, and staff indicated that there were problems in persuading Danish prisoners to accept the kind of jobs they were offering. According to information provided by the prison management, on 19 February 2008, 109 inmates were employed in the workshops or worked in their cells, 29 performed various maintenance tasks, and 56 attended school, vocational training or other forms of study; this meant that nearly 90% of the inmate population was occupied.

After 3.30 p.m., prisoners were free to take exercise, attend the gym or engage in general recreation until the cells were locked at 9.30 p.m. The prison had a well-stocked library with many foreign-language books. Further, religious services were provided by a full-time priest and a part-time imam.

The outdoor exercise facilities were of an adequate standard, with the exception of the facility intended for prisoners held in disciplinary isolation or placed in judicially-imposed solitary confinement, which represented a small caged area measuring some 10 m<sup>2</sup>. **The CPT recommends that a more appropriate outdoor exercise facility be provided for these categories of prisoner.**



More generally, the Committee **encourages the management of Nyborg State Prison to continue making efforts to engage more prisoners in work and other purposeful activities (in particular, education and vocational training).**

c. the Western Prison

53. The Western Prison is the main remand facility of a group of prisons called “the Copenhagen Prisons”.<sup>32</sup> With an official capacity of 410 individual cells (plus 37 cells in the prison hospital), it was operating at 90% capacity at the time of the visit. The vast majority of inmates were remanded in custody. The inmate population also comprised 22 women, and 2 girls and 1 boy aged between 15 and 18. **The CPT would like to receive clarification as to why the three persons aged between 15 and 18 were being held at the Western Prison and not at a secure department for minors and juveniles.**

54. Despite the fact that the Western Prison is housed in a building dating back to the late 19<sup>th</sup> century, the physical conditions of detention were acceptable. As a general rule, all prisoners had their own cell measuring some 12 m<sup>2</sup> and equipped with a bed, table, chair, shelves, fridge and wash basin, as well as a compartment for a TV set which could be rented from the prison. The lighting could be controlled from both inside and outside, and each cell had a call bell. However, the state of repair of some of the cells on the first and second floors of the Southern Wing - where prisoners placed in judicially-imposed solitary confinement and those arrested by the police were held - left something to be desired. The delegation noted nevertheless that there was a rolling programme of renovation which in time would involve the two floors in question.

During the day there was no restriction on prisoners’ access to the common toilets and showers. At night, prisoners could call a prison officer if they wished to use a toilet. No complaints were heard by the delegation in this respect.

As regards food, most prisoners had no complaints to make, but a few inmates claimed that the food provided to vegetarians was rather monotonous (mostly potatoes).

55. The delegation was concerned by the inadequate conditions under which prisoners in solitary confinement took their outdoor exercise. Despite previous recommendations by the CPT that proper opportunities for outdoor exercise to prisoners in solitary confinement be provided, the arrangements remained the same as was observed at the time of the 1990 visit (i.e. a star-shaped formation of 23 narrow yards, each measuring some 40 m<sup>2</sup> and covered with wire-netting). Several prisoners interviewed by the delegation indicated that they did not take outdoor exercise because they were put off by the configuration of the yards.

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<sup>32</sup> The title "Copenhagen Prisons" is used to designate a group of prisons serving the greater Copenhagen area (including the Western Prison, the Police Headquarters Prison and Blegdamsvejen Prison). These prisons are under the same management and, as a result, there are no separate inmate statistics kept for each of them. At the time of the 2008 visit, the official capacity of the Copenhagen Prisons was 527, and the actual number of prisoners held, 493 (including 325 on remand, 44 sentenced, 75 awaiting appeal/confirmation of their sentence, 41 foreign nationals awaiting deportation after having served their sentences, and 8 arrested by the police).

In their response to the preliminary remarks made at the end of the visit, the Danish authorities indicated that the management of the prison had in the past submitted a project proposal for the renovation of the existing facilities, including an expansion of the single exercise areas. It was stated that in the light of the delegation's remarks, the prison would prepare as soon as possible a more up-to-date proposal for a new exercise yard for inmates in solitary confinement.

**The CPT recommends that steps be taken without further delay to improve exercise arrangements for prisoners in solitary confinement at the Western Prison.**

56. As regards activities<sup>33</sup>, prisoners were offered a variety of options (work, education, sports, religious activities, hobbies, library, etc.). Efforts were being made to provide work and education to all prisoners who so wished and the delegation was informed that there was a 66% participation rate in such activities. The working day ran until 3 p.m., followed by a two-hour outdoor exercise period and cell association from 6 to 8.30 p.m. Further, the prison had an impressive gym for ball games and a series of small gyms with weight-lifting equipment to which inmates had reasonable access. In general, the facilities for prisoners' activities were very good, but it was the management's ambition to improve them further and, in particular, to ensure greater continuity between occupation at the prison and life in the community.

**The CPT can only encourage the management of the Western Prison to continue making efforts to engage more prisoners in work and other purposeful activities (in particular education and vocational training).**

## **7. Health-care services**

57. As regards health-care staffing levels and resources in terms of premises, facilities and equipment, the situation in the prisons visited was acceptable. For example, at the Western Prison, the health-care staff comprised a Head doctor, 6 full-time doctors, 3 part-time psychiatrists, 22 nurses and a dentist.<sup>34</sup> At East Jutland Prison, the health-care service was staffed by one doctor (who held surgeries at the prison twice a week, and was on call at other times), 3 full-time and 2 part-time nurses, a dentist (present for two days a week) and a psychiatrist who paid weekly visits.

58. The CPT has repeatedly stressed in the past the importance of the medical screening of prisoners upon admission, especially in establishments that constitute points of entry into the prison system.<sup>35</sup> Such screening is indispensable, particularly in the interest of preventing suicides and the spread of transmissible diseases and to ensure the timely recording of injuries. Screening on admission could be undertaken either by a doctor or by a qualified nurse reporting to a doctor.

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<sup>33</sup> Leaving aside the regime of prisoners held in solitary confinement, on which see paragraph 42.

<sup>34</sup> These medical professionals catered for the "Copenhagen Prisons", including the prison hospital, i.e. for some 500 inmates

<sup>35</sup> See paragraph 54 of CPT/Inf (2002) 18 and paragraphs 103 to 108 of CPT/Inf (97) 4.

At all the prisons visited, the delegation was informed that newly arrived prisoners were interviewed by a nurse soon after admission (usually within 24 hours of their arrival). In cases where the nurse considered that it necessary for the prisoner concerned to be seen by a doctor, a doctor was reportedly called without delay. However, some prisoners interviewed by the delegation at the Western Prison alleged that they had not been seen by either a nurse or a doctor.

Pursuant to Executive Order No. 374 of 17 May 2001 on the provision of health care in institutions under the Prison and Probation Service, prisoners should be given a general briefing on the health-care arrangements of the institution as soon as possible following admission and should be offered orally a consultation with the doctor or nurse of the institution. However, this does not apply if: i) it is assumed that the prisoner's stay will be quite brief, and ii) the inmate has been transferred from another prison where he/she was previously offered a consultation with a doctor or nurse. It must be recorded in the inmate's file whether the inmate requests a consultation with a doctor or nurse. In the affirmative, the consultation must take place as soon as possible. Proceeding from the principle that any contact with the health-care services is normally only made at the patient's request, the Executive Order is worded so that the initial contact with health-care staff only takes place if the inmate consents to it.

**The CPT considers that the initial medical screening of all persons admitted to a prison should be obligatory, not an option offered to them (see also Rule 42.1 of the European Prison Rules). The Committee recommends that the Danish authorities take steps to ensure that all inmates, regardless of the length of their estimated length of stay, are systematically medical screened upon their arrival in prison.**

59. After the visit, the Danish authorities informed the CPT that the Prisons and Probation Service intended to apply for funding for a pilot project on the screening of prisoners for somatic illnesses; this initiative should be seen in the light of the increasing number of foreign inmates with relatively poor health. **The CPT would like to be kept informed of developments in this respect.**

60. The CPT's delegation obtained a positive impression of the system for the recording of medical information in the prisons visited. All inmates had electronic files (and, in addition, some had paper files from other establishments) which were well-kept and were only accessed by health-care staff. The electronic filing system was in the process of being introduced at East Jutland Prison.

61. The CPT has in the past expressed concern as regards the provision of psychiatric and psychological care to prisoners in Denmark.<sup>36</sup> It transpired during the 2008 visit that the transfer of prisoners in need of psychiatric treatment to specialised establishments can pose problems (as illustrated by the frequent use of security cells, see paragraph 70). **The CPT would like to receive the comments of the Danish authorities on this matter.**

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<sup>36</sup> See paragraph 58 of CPT/Inf (2002) 18 and paragraph 11 of CPT/Inf (97) 4.

During the visit, the delegation was informed that the Ministry of Justice was looking at ways to improve the screening of prisoners for psychiatric problems. The Prison and Probation Service has recently been granted funds to conduct a 4-year pilot project for the early identification of mental illness amongst remand prisoners. It is envisaged that the project will involve some 1,500 prisoners in several pre-selected remand establishments, who will be screened for mental problems as soon as possible upon arrival and, if necessary, referred for psychiatric treatment. The pilot project is being launched in order to test a screening model and provide a basis for assessing whether such screening should be introduced nationally. The CPT welcomes this initiative and **looks forward to receiving information on the outcome of the above-mentioned pilot project.**

62. The delegation was impressed by the atmosphere, material conditions and regime in the drug treatment and drug-free units at East Jutland and Nyborg State Prisons. **The CPT can only encourage the Danish authorities to pursue their efforts in this field, by ensuring that appropriate health-care services and life-skills rehabilitation for inmates with drug problems are available in all prison establishments.**

## **8. Other issues of relevance to the CPT's mandate**

### **a. contact with the outside world**

63. The CPT's delegation was generally impressed by the arrangements for sentenced prisoners' contact with the outside world. Inmates in the establishments visited were normally allowed at least one visit of one hour per week. In addition, prisoners could apply to receive extended unsupervised visits, to enable them to maintain family and personal relations. Further, the visiting facilities were found to be of a good – even excellent (at East Jutland Prison) – standard, and the situation as regards telephone contact and prisoners' incoming and outgoing mail was also satisfactory.

However, the location of East Jutland State Prison – some 20 km away from the town of Horsens – made it rather difficult for prisoners' visitors to travel to the establishment (there was no regular public transport from Horsens and a taxi was the only option for those visitors who did not have their own car). **When a prison is constructed a distance away from all means of public transport, the Prisons and Probation Service should take responsibility for providing affordable transport to the prison on a regular basis.**

64. Remand prisoners held in judicially-ordered solitary confinement or subject to police-imposed restrictions on their contact with the outside world were granted visits under police supervision. However, at the Western Prison, it appeared that, due to the shortage of police staff available to supervise such visits, some remand prisoners could rarely benefit from family visits (e.g. one prisoner detained for five weeks had apparently had only two visits). Further, some prisoners of foreign nationality indicated 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. **The CPT would like to receive the comments of the Danish authorities on these issues.**

b. disciplinary matters

65. Danish legislation envisages three types of disciplinary sanctions: warning, fine and placement in a disciplinary cell. The last mentioned sanction may only be imposed for the following offences: escape or failure to return from leave; smuggling, possession or use of alcohol or drugs; refusal to provide a urine sample; smuggling or possession of arms and other dangerous objects; violence or threats of violence against fellow inmates or staff; gross vandalism; other serious or frequently repeated offences.<sup>37</sup> Decisions regarding disciplinary sanctions may be appealed against to the Prisons and Probation Service. In case of placement in a disciplinary cell for more than 7 days, the decision may also be appealed against in court. The maximum length of placement in a disciplinary cell is four weeks.

66. The delegation was satisfied that the disciplinary procedure offered adequate safeguards to prisoners (in particular, the right to be heard; the right to have access to a lawyer; the right to appeal against the sanction). Further, the records of disciplinary hearings in the establishments visited were scrupulously kept.

However, from interviews with inmates, it appeared that decisions concerning disciplinary sanctions were not always clearly communicated to them; in some cases, this was obviously due to a language barrier. The Danish authorities indicated that if interpretation was needed during disciplinary hearings, fellow inmates could be used as interpreters provided that they gave their consent and the interpretation could be assumed to be correct. An official interpreter could also be called depending on the severity of the decision. **The CPT has reservations about the use of prisoners as interpreters for other prisoners during disciplinary hearings. If, exceptionally, recourse is had to such an approach, the consent of the prisoner facing disciplinary charges should be carefully documented.**

67. The delegation was struck by the very high number of disciplinary sanctions at East Jutland and Nyborg State Prisons. At the first establishment, there had been a total of 1,168 disciplinary sanctions in 2007 (compared with an average of 712 in the three previous years), which included 251 placements in a disciplinary cell and 696 fines. At the second establishment, the number of disciplinary sanctions in 2007 was 1,073 (including 241 placements in a disciplinary cell and 695 fines), which was similar to the numbers in the previous three years.

According to the management of East Jutland State Prison, the increase registered in 2007 may have been related to the fact that inmates had no occupation for a large part of that year as the workshop areas were only partly functional, which gave rise to considerable unrest. In response to the delegation's preliminary observations, the Prisons and Probation Service indicated that it would monitor closely the development in the number of disciplinary cases at East Jutland State Prison. More generally, it was noted that the Service continuously checked prison practices in this field and that attempts were made to counter any differences which might be related to the training of prison officers in charge of disciplinary procedures (the so-called "interrogation officers"). Likewise, the so-called "normal response forms", in which all prisons set out their standard sanctions for a number of different disciplinary offences, are an important element in the efforts to avoid unfounded differences in practice.

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<sup>37</sup> See Sections 67 and 68 of the Law on the Enforcement of Sentences.

**The CPT encourages the Danish authorities to continue monitoring the imposition of disciplinary sanctions in order to ensure that they are always proportionate to the offence.**

68. As regards material conditions in the disciplinary cells, they were found in general to be of a reasonable standard. However, at East Jutland State Prison, the disciplinary cells had windows without an airing hatch (unlike windows in the normal cells), and, according to prisoners, the cells could become very hot in the summer. Staff were aware of the problem and were looking at ways to rectify it. After the visit, the Danish authorities indicated that the problem had been presented to the prison's consulting architect and engineer of the project, according to whom the ventilation system installed in the disciplinary cells provided better air circulation than the ventilation system in ordinary offices. It was therefore decided to perform a test to ascertain whether the ventilation system works properly. **The CPT would like to be informed of the outcome of this test.**

c. security cells and means of restraint

69. Danish legislation provides that an inmate may be confined in a security cell and be immobilised by force, if necessary, to avert imminent violence or overcome violent resistance, or to prevent suicide or self-mutilation. No confinement in a security cell and forced immobilisation may be effected if such a measure would be disproportionate in view of the purpose of the measure and the indignity and pain which might be caused by it. Moreover, any confinement in a security cell and forced immobilisation must be effected with as much consideration as circumstances permit.

All prisons visited possessed one or more security cells which were furnished with a bed, to the side of which were attached leather bracelets designed to immobilise the hands alongside the body, a broad leather strap to immobilise the trunk and leather bracelets to immobilise the ankles. Inmates placed in a security cell were closely monitored by staff, and a doctor was called in whenever an inmate was immobilised. Cases of inmates held under immobilisation for more than 24 hours were reported to the Prisons and Probation Service, which monitored the situation.

70. The CPT is concerned by the length of time during which means of restraint were being applied to prisoners placed in a security cell at East Jutland State Prison. There had been a total of 46 cases of confinement to a security cell and immobilisation at that establishment in 2007; 54% of them were terminated within 6 hours, and a further 36% within 24 hours. Of the remaining five cases, the longest had lasted for 89 hours.<sup>38</sup>

The records maintained at the prison were excellent. A detailed protocol was drawn up in each case, comprising, inter alia, the reasons for the application of restraint and an account of the prisoner's behaviour during the measure. However, the examination of one protocol chosen at random raised some questions. The prisoner concerned had been placed in a security cell after refusing to take water to swallow a pill as ordered by staff, and had been immobilised (with a belt, hand and ankle straps) from 9.46 p.m. on 29 August 2007 until 7.18 a.m. on the following morning (i.e. for some 9½ hours). According to the protocol, he had been asleep for most of that time. A doctor had examined him soon after he had been immobilised (at 10.45 p.m.).

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<sup>38</sup> The inmate concerned was confined to a security cell due to an attempted suicide; a day later, he was moved to an observation cell, but subsequently told staff that he had suicidal thoughts and was again immobilised in the security cell. Two months later, the inmate was transferred to the Herstedvester Institution for treatment.

71. The CPT understands that it is necessary on rare occasions to resort to means of restraint in a prison setting. However, in the Committee's opinion, the approach to immobilisation in prisons should take into consideration the following principles and minimum standards:

- Regarding its appropriate use, immobilisation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail satisfactorily to contain those risks; it should never be used as a punishment or to compensate for shortages of trained staff; it should not be used in a non-medical setting when hospitalisation would be a more appropriate intervention.
- Any resort to immobilisation should be immediately brought to the attention of a doctor in order to assess the need for the measure, as opposed to certifying the individual's fitness for it.
- The equipment used should be properly designed to limit harmful effects, discomfort and pain during restraint, and staff must be trained in the use of the equipment.
- The duration of fixation should be for the shortest possible time (usually minutes rather than hours). The exceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment.
- Persons subject to immobilisation should receive full information on the reasons for the intervention.
- The management of any establishment which might use immobilisation should issue formal written guidelines, taking account of the above criteria, to all staff who may be involved.
- An individual subject to immobilisation should, at all times, have his/her mental and physical state continuously and directly monitored by an identified member of the health-care staff or another suitably trained member of staff who has not been involved in the circumstances which gave rise to the application of immobilisation. The staff member concerned should offer immediate human contact to the immobilised person, reduce his/her anxiety, communicate with the individual and rapidly respond, including to the individual's personal needs regarding oral intake, hygiene and urination and defecation. Such individualised staff supervision should be performed from within the room or, if the inmate so wishes, very near the door (within hearing and so that personal contact can be established immediately). The supervising staff member should be required to maintain a written running record. Further, the person concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint. This discussion should always involve a senior member of the health-care staff or another senior member of staff with appropriate training.

**The CPT recommends that the Danish authorities take the necessary steps to ensure that all the principles and minimum safeguards set out above are applied in prisons when resort is had to immobilisation.**

d. complaints procedures

72. In previous visit reports, the CPT has emphasised that effective complaints procedures are basic safeguards against ill-treatment in prisons.<sup>39</sup> It transpired during the 2008 visits that there was still no systematic approach to the handling of complaints by prisoners, be it in respect of registration, follow-up or the keeping of statistics. In this regard, the initiative taken at Nyborg State Prison since October 2007 to start such a system is most welcome.

In response to the preliminary observations made by the CPT's delegation at the end of the visit, the Danish authorities indicated that in 2002, the so-called "Client System" (a computerised database of the Prison and Probation Service) was developed further with a view to registering all complaints. Prisoners' complaints are registered in this system under the respective prisoner's name, with a brief summary. It is thus possible to generate statistical reports on, for example, the number of complaints registered for each prisoner, the number of complaints registered in respect of the individual prison, or the number of complaints concerning a particular issue (e.g. refusal of visits). Further, the handling of complaints by the Prison and Probation Service has undergone a review to ensure that complaints are considered as quickly as possible. In 2007, the Service published efficiency strategies, the so-called "Clear Targets", on certain matters (leave, transfer, probation) to ensure that inmates receive an answer within a reasonable time.

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

e. information to prisoners

73. According to Danish law, all newly admitted prisoners must be supplied with information on the regime in force in the establishment and on their rights and duties, in a language which they can understand. The prisons visited possessed information leaflets for inmates in Danish and, at the Western Prison in Copenhagen, in several other languages. As a general rule, soon after admission, newly arrived prisoners met a staff member who explained to them the internal regulations and, on this occasion, gave them a copy of the leaflet. However, it appeared from interviews with prisoners that some of them had not received written information in a language which they could understand.

Following the visit, the Danish authorities informed the CPT that the Prison and Probation Service had issued updated guidelines for detainees/remand prisoners and sentenced prisoners, available in Danish, English and 19 other languages, which had been dispatched to all prisons. The guidelines are available in all languages on the Service's Intranet so that the prisons can print them out whenever needed. It was impressed on all institutions that the guidelines must be handed out to all inmates upon arrival, and that the guidelines handed out to foreign inmates must be in their own language or in a language that they understand. Further, the guidelines were being updated and linguistically improved, and new versions were expected to be ready in the spring of 2008. When the new versions are dispatched, the Service will take the opportunity to remind the institutions that all inmates must be given a copy of the guidelines upon arrival.

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<sup>39</sup> See paragraphs 63-64 of CPT/Inf (2002) 18 and paragraphs 125-128 of CPT/Inf (97) 4.



The CPT welcomes the substantial efforts of the Danish authorities to improve the provision of written information to prisoners and to ensure that it is systematically provided to all prisoners upon their arrival at a prison, in a language which they can understand.

## **9. The Herstedvester Institution**

74. The focused follow-up visit to the Herstedvester Institution concentrated on two issues which had provoked the CPT's concern in the past: the treatment of sexual offenders undergoing anti-hormone therapy, and the situation of prisoners from Greenland. In its reports on the visits in 1990 and 1996, the Committee considered these issues in detail and made a number of comments and recommendations in respect of them.

- a. treatment of sexual offenders undergoing anti-hormone therapy

75. In the 1996 visit report, the CPT stressed that ensuring that patients' consent to medical treatment is genuinely free and informed was a particularly acute issue in establishments such as the Herstedvester Institution in which patients constituted a "captive" group. The consent given by patients of that category may be influenced by their penal situation, especially if they were facing a long - or even indeterminate - period of imprisonment. The Committee recommended that steps be taken to ensure that the signed consent of patients was 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. Further, the CPT stressed 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 be as free and informed as possible in the circumstances.

76. During the 2008 visit to the Herstedvester Institution, the delegation interviewed four sex offenders undergoing treatment with libido-suppressing drugs (including one who had been released on parole and who was attending the institution as an outpatient), as well as two others waiting to start treatment and six who had refused treatment.

As regards the first group, the signed consent of persons concerned had been obtained prior to the commencement of treatment. However, it appeared that they had accepted the treatment as a "ticket to freedom" (i.e. release on parole or transfer to an open prison) rather than as a treatment for something which was wrong with them, not to speak of an illness. They indicated that they met a psychologist at varying intervals (from once every two weeks to once every two months), but that they did not take part in group therapy. Consultations with a psychiatrist were reportedly rare. All of them had been informed of the possible adverse side-effects effects of the treatment (i.e. bone decalcification, dose-dependent liver damage, weight gain, breast enlargement and hot flushes), but some felt that the information was not complete and feared that the treatment was dangerous for them. Some of them were experiencing side-effects for which they were receiving medication.

From the group of prisoners waiting to start treatment, one prisoner stated that he had not received any information in writing about the treatment, but after a number of meetings with his case worker and a psychologist, he had decided to follow it because of having been told that he can be transferred to an open prison.

Some of the prisoners who had refused the treatment because they could not come to terms with its adverse side-effects indicated that they had felt pressured to accept it.

77. At the end of the visit, the CPT's delegation stressed that awareness of the possible health benefits and risks of anti-hormone therapy is essential for consent to treatment to be truly informed.

In response to the delegation's preliminary observations, the Danish authorities indicated that the conditions for offering libido-suppressing treatment to prisoners are very restrictive and only two to four inmates a year commence this treatment.<sup>40</sup> Medical libido-suppressing treatment is only offered when all other options have been exhausted or are deemed insufficient to counter the risk of relapse into sexual offences. Combined with psychotherapy, the libido-suppressing treatment is intended to prevent the sexual offender from having compulsive and violent sexual fantasies while suppressing the sexual libidinal pressure, so as to avoid new sexual offences.

According to the authorities, treatment is only commenced when the inmate has given his written informed consent. During a consultation with an external endocrinologist, the inmate is briefed on the effects and side-effects of the medicine orally and in writing, whereupon the inmate is invited to sign a statement confirming that he has received such a briefing and that he is willing to receive the treatment. In Denmark, the person's consent is a condition for the treatment of persons of unsound mind. This also applies to persons who undergo libido-suppressing treatment. Typically, however, the inmate is motivated by the fact that he cannot obtain permission for leave, release on parole or conditional discharge without commencing libido-suppressing treatment.

Since 1997, all cases concerning libido-suppressing treatment as a condition for release are submitted to the Medico-Legal Council for approval. The Medico-Legal Council, which is an independent body, considers whether psychotherapeutic treatment is sufficient to reduce the risk of relapse into similar dangerous crime. Medical libido-suppressing treatment can start only if the Council agrees that it is necessary.

In the opinion of the Herstedvester Institution, most of the inmates undergoing libido-suppressing treatment benefit from the psychotherapeutic element of the treatment. The therapeutic element of the treatment has several purposes, including assessing whether the inmate's mental condition changes in connection with the medical element of the treatment. Libido-suppressing treatment is typically given over a long period, and some inmates may therefore feel that a long time passes before liberty privileges are granted. This may be perceived as highly frustrating by the inmate, who might get the impression of not benefiting from the treatment.

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<sup>40</sup> The criteria for offering libido-suppressing treatment to sexual offenders are that they: i) have committed repeated or very serious sexual offences; ii) are deemed to be at risk of relapsing into the same type of offences; and iii) are assessed as persons for whom psychotherapy and other forms of treatment, for example against drug or alcohol abuse, cannot reduce the risk of relapse into sexual offences.

78. The CPT has taken note of the explanations provided by the Danish authorities. They would indicate that the medical libido-suppressing treatment of sex offenders is at present surrounded by appropriate safeguards. Nevertheless, in the light of the information obtained by the delegation during the visit to the Herstedvester Institution, **the Committee considers that more attention should be paid to ensuring that these safeguards are being fully respected in practice. In particular, special care should be taken to make sure that prisoners' consent to medical libido-suppressing treatment is genuinely free and informed. In this connection, the provision of full information (oral and written) on the known adverse effects – as well as the possible benefits – of the treatment, should be improved. Further, no prisoner should be put under undue pressure to accept medical libido-suppressing treatment.**

**Moreover, in addition to drug treatment, efforts should be made to step up psychotherapy and counselling with a view to reducing the risk of re-offending.**

b. treatment of prisoners from Greenland

79. At the time of the visit, the Herstedvester Institution was holding 22 Greenlanders, some of whom were sentenced to unspecified periods of imprisonment. They were accommodated in a separate building, the material conditions of which were adequate. The delegation noted certain positive steps taken by the Danish authorities to improve the situation of prisoners from Greenland. To counter the effects of prolonged separation from their culture, steps had been taken to employ more Greenlandic staff in the section (including an interpreter), to provide them with Greenlandic food and specialised occupational therapy (e.g. typical Greenlandic crafts) and to enable them to make phone calls, have home visits and receive visitors from Greenland.

Despite these improvements, many Greenlanders interviewed by the delegation indicated that they felt subjected to a double punishment and suffered psychologically from the limited contact with their families. **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.**

80. After the 2008 visit, the Danish authorities indicated that the Danish Parliament had recently passed a bill revising the judicial system of Greenland. The bill makes it possible to accommodate inmates sentenced under the current Criminal Code for Greenland to incarceration for an indeterminate period in an institution in Greenland under psychiatric management associated with the Danish Prison and Probation Service. A new closed institution will be built in Nuuk to house the Greenlandic inmates of the Herstedvester Institution. The Prison and Probation Service has commenced work on the general project plan for the new institution, which is expected to be ready in 2012/2013. It is intended that the possibility of transferring sentenced offenders to an institution under psychiatric management in Denmark will be abolished when the new institution enters into service. **The CPT considers that the project for the construction of a new institution in Greenland should be given high priority. The Committee would like to be kept informed of the progress made in this area.**

## C. Establishments for foreign nationals detained under aliens legislation

### 1. Preliminary remarks

81. Ellebæk (formerly “Sandholm”) Prison and Probation Service Establishment for Asylum-seekers and others deprived of their liberty had previously been visited by the CPT in 1990 and 2002.<sup>41</sup> It is located twenty-five km north of Copenhagen, on the premises of a former military barracks. With an official capacity of 118, at the time of the visit it was holding 72 detainees, of whom 8 were women.

The Ellebæk Institution was used to hold several categories of persons detained in accordance with the Aliens Act: asylum seekers processed according to the normal procedure; asylum seekers awaiting a decision on whether Denmark or another EU member state was responsible for dealing with their applications in accordance with the so-called “Dublin II Regulation”; persons whose asylum applications had been rejected and who were awaiting deportation; and, finally, asylum seekers who had been sentenced for a criminal offence and were awaiting deportation while their asylum application was still pending.

According to the Aliens Act, detention of a foreign national should only take place if other, less coercive, measures are deemed insufficient to ensure the presence of the person in question. The Aliens Act does not establish a maximum length of time during which a foreign national may be detained. Pursuant to Section 37(3), the court determines a time-limit for continued detention which may subsequently be extended, but by no more than four weeks at a time. In practice, the courts have accepted detention periods of up to two years.

### 2. Ill-treatment

82. The CPT’s delegation did not receive any allegations of physical ill-treatment by staff working at the Ellebæk Institution and there were no indications of inter-detainee violence. The delegation observed that the general atmosphere was relatively relaxed, despite the fact that detainees obviously experienced considerable psychological stress and frustration due to the uncertainty of their situation.

However, a number of allegations were made about verbal abuse and rude behaviour with racist connotations by certain members of custodial staff. **The CPT recommends that custodial staff at the Ellebæk Institution be reminded that they must always treat detainees in their custody with respect.**

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<sup>41</sup> See documents CPT/Inf (91) 12 and CPT/Inf (2002) 18.

### 3. Conditions of detention

83. At the outset, the CPT wishes to reiterate that persons detained under aliens legislation should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation. Care should be taken in the design and layout of such premises to avoid as far as possible any impression of a carceral environment. As regards in particular asylum seekers, they should only be detained as a last resort, for the shortest possible duration, and after other, less coercive, measures have proven insufficient to ensure the presence of the person in question.

#### a. material conditions

84. The Ellebæk Institution comprised five detention units (16 East, 16 West, 17, 18 East and 18 West). Another detention unit (unit 67) was not in use at the time of the visit.

Detainees were as far as possible placed in units in accordance with their nationality. Two to three persons shared cells measuring some 18 m<sup>2</sup>. Female detainees were being held in a separate unit (No. 17), and a small unit was reserved for families. The delegation was informed that the latter unit was used three to four times a year on average, and the detention period for families usually lasted between 24 and 48 hours. The CPT welcomes the fact that female detainees and families are now being detained separately.

A special high security unit (18 West), with reinforced walls, was used to house detainees who were suspected of planning, or who had attempted, to escape; there was no difference in the regime applied to these detainees in comparison to the other units.

85. Material conditions of detention were on the whole adequate. However, the delegation noted that the detention units were in a rather run-down state, and most of the cells visited were in need of cleaning. Moreover, beds and other furniture were not of the same high standard as those in the other Danish prisons and detention establishments visited. Indeed, the beds were uncomfortably hard, and bed linen was in some cases worn to the seams. Further, the recreational areas appeared to be in a bad state of repair. **The CPT recommends that efforts be made to clean and refurbish the detention units of the Ellebæk Institution, improve the bedding arrangements and make the environment more appealing.**

86. As regards food, the delegation was informed that it was delivered ready-made to the establishment and supplemented with fresh salad, rice and bread; fruit was served twice a day. Halal and vegetarian dishes were offered to detainees in order to cater for their dietary habits. This is a welcome improvement in comparison with the situation observed at the time of the 2002 visit. However, many detained persons still complained that the food was not varied enough. **The CPT invites the Danish authorities to consider enabling persons detained at the Ellebæk Institution to prepare their own food.**

b. activities

87. Detainees benefited from an open door regime within their units throughout the day, which is a welcome approach in an establishment for immigration detainees. There was a reasonable offer of activities, including production work, maintenance work, gardening, education (English and social studies) and communal activities (once a month). Participation in work and educational activities was remunerated in the same way as for prisoners. The delegation was informed that some 20-25 detainees were occupied in production activities and about 15 other detainees were engaged in cleaning, gardening, and maintenance activities.

Further, detainees had access to TV (including to foreign and international channels) and newspapers (however, only in Danish). At least one hour of outdoor exercise was offered every day. As for sports activities, detainees had access three times a week to a gym and, weather permitting, outdoor sports activities were also offered.

88. Nevertheless, it appeared that the regime at the Ellebæk Institution was based *mutatis mutandis* on that applicable to remand prisoners in Danish prisons, which did not reflect sufficiently the specificity of the establishment's functions and limited the number of activities available. In the CPT's view, both detainees and staff would benefit from a regime especially tailored to an establishment holding foreign nationals who are not serving sentences, but who are being detained administratively with a view to enforcing deportation.

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

#### 4. Health care

89. At the time of the visit, the health-care staff at the Ellebæk Institution consisted of one general practitioner (attending for 15 hours a week) and two full-time nurses (30 hours per week). Dental care and access to medical specialists was provided by means of outside consultations.

The delegation did not receive any complaints from detainees regarding access to medical care in the Ellebæk Institution. Quite to the contrary, many detainees expressed their satisfaction with the work of health-care staff. The delegation was satisfied that the level of somatic, including dental, care provided to detainees in the establishment was adequate.

90. In accordance with the previously-mentioned Executive Order No. 374 of 17 May 2001 on the provision of health care in institutions under the Prisons and Probation Department, all new arrivals were offered an initial interview with a nurse in order to ascertain their medical needs, including for psychiatric treatment or psycho-social intervention. This is a positive step forward. However, as already pointed out in paragraph 58, the initial interview of new arrivals should be obligatory, not an option offered to them. This is particularly important in view of the fact that a large proportion of detainees held at the Ellebæk Institution come from parts of the world affected by tuberculosis and may otherwise have poor health.

**The CPT recommends that the Danish authorities take urgent steps to introduce systematic medical screening of all persons admitted to the Ellebæk Institution as soon as possible after their admission.**

91. As regards psychiatric care, the delegation was informed that detainees in need of examination or treatment were transferred to the hospital adjacent to the Western Prison in Copenhagen or, in acute cases, to the psychiatric department of the nearby Hillerød Hospital.

However, the delegation was concerned by the lack of arrangements for regular visits to the Ellebæk Institution by a psychiatrist and a psychologist. The CPT must stress the need for particular attention to be paid to the mental health and psychological state of foreign nationals in custody, some of whom are asylum seekers and may have experienced difficult situations – including torture and other forms of ill-treatment – in their home countries, while others might be suffering from psychological stress while awaiting deportation. **The Committee recommends that measures be taken to ensure regular attendance by a psychiatrist and a psychologist at the Ellebæk Institution and to step up psycho-social interventions.**

## **5. Other issues**

### **a. staff**

92. The staff at the Ellebæk Institution consisted of 55 full-time and 3 part-time custodial officers, 4 workshop supervisors, a teacher, a pedagogue, a gym instructor and a maintenance worker. At the time of the visit, three more positions were not filled (two workshop supervisors and one pedagogical assistant). A Lutheran priest of the Danish State Church was attached to the establishment; however, according to the management it had for a long period proved difficult to find an imam. A decision in this regard was expected to be taken by the Prison and Probation Service in the summer of 2008. Taking into account the relatively large number of Muslims among the detained persons, **the CPT trusts that the Danish authorities will be able to provide the services of an imam in the near future.**

93. The delegation observed that, on the whole, staff-detainee relations were reasonably relaxed. All staff spoke English and relied on detainees to translate into their own languages in every day dealings. Professional interpretation was available for more important conversations, including with the medical doctor. The delegation noted that some progress had been made in comparison to the situation in 2002 in terms of sensitising custodial staff to the cultural differences of detainees and the importance of being able to recognise if detainees were showing stress symptoms. The CPT welcomes this positive development and **urges the Prison and Probation Service to continue focusing on the special training needs of custodial staff dealing with immigration detainees.**

94. The ability to identify staff, either by name or number, constitutes an important safeguard against ill-treatment during detention. In this respect, the delegation noted that none of the custodial staff at the Ellebæk Institution was wearing any visible means of identification. **The CPT recommends that all custodial staff at the Ellebæk Institution be required to wear some form of identification in a visible place on their uniform.**

b. information to detainees and contact with the outside world

95. The delegation received copies of a leaflet in English (which also existed in French and German) containing information about the administrative detention of foreigners and the regime applicable in the Ellebæk Institution. The introduction of this leaflet, which contains useful and comprehensive information for detainees, is a welcome development. However, many detainees alleged that they had not been given a copy of the leaflet and lacked information concerning their situation. **The CPT recommends that steps be taken to ensure that the information leaflet is systematically provided to all detained persons upon their arrival at the Ellebæk Institution.**

96. Detained foreign nationals were entitled to make phone calls (including international calls) and to receive visits of at least one hour per week.<sup>42</sup> Further, all detainees had the right to unlimited visits from their legal advisers. No particular problems were observed in this respect.

c. discipline

97. Detained foreign nationals who committed a violation of the internal regulations could incur disciplinary punishment in the form of a warning, fine or confinement to a disciplinary cell. Temporary prohibition of association could also be imposed.

The disciplinary procedure appeared to be satisfactory. Before a disciplinary punishment was imposed, a hearing was held at which the detainee had the possibility to give his/her version of the matter at hand. Detainees had the right to receive the disciplinary punishment decisions in writing and could lodge complaints against them with the Prison and Probation Service. The latter's decision could in turn be appealed against to the Parliamentary Ombudsman, and in certain cases before the courts. Further, the delegation gained the impression that disciplinary punishments were imposed sparingly and in a proportionate manner. However, the delegation noted that the disciplinary cells (which were empty at the time of the visit) were very cold; **when in use, adequate heating should be provided in the disciplinary cells.**

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<sup>42</sup> Unless a detainee was subject to limitations on his/her visits and correspondence imposed by the police, which happened infrequently.



## **D. Establishments for juveniles and minors**

### **1. Preliminary remarks**

98. The CPT's delegation visited, for the first time in Denmark, two secure departments for juveniles (15 to 17 years old) and minors (12 to 14 years old), namely Bakkegården in Nykøbing Sjælland and Sønderbro in Copenhagen.

99. There are in all eight secure departments for juveniles in Denmark with a total capacity of 121 places. These establishments are administered by the regional authorities on the basis of the Social Services Act.<sup>43</sup> A secure department is defined in Danish legislation as a department of an establishment or a whole establishment, the outer doors and windows of which remain locked at all times.<sup>44</sup> Several categories of juveniles and minors might be placed in a secure department: those who have been remanded in custody<sup>45</sup> during police investigation or pending criminal trial (71% of all placements in secure departments in 2006); those serving "juvenile sanctions" imposed by courts (19% in 2006); those who pose a danger to themselves or others, or who are otherwise in need of socio-pedagogical observation or intervention (6% in 2006); and, finally, foreign nationals under the age of 15 illegally present in Denmark (3% in 2006).

The length of detention in a secure department varies from one category to another. For juveniles in "substitute" remand custody, the general rules of the Administration of Justice Act on remand custody apply.<sup>46</sup> The maximum period of detention in case of a "juvenile sanction" is twelve months; however, the court may decide to prolong the measure for an additional six months. As regards juveniles and minors posing a danger to themselves or others or otherwise in need of socio-pedagogical observation or intervention, they may be held in a secure department for up to two months at a time.<sup>47</sup> This period may be prolonged by the municipal authorities if there is need for prolonged treatment; thus persons older than 15 may be held for up to twelve months in total, and those younger than 15, for up to four months.

According to national statistics, in 2006, the periods actually spent by juveniles and minors in secure departments ranged from 48 days on average for juveniles placed in "substitute" remand custody, 30 to 47 days for those serving "juvenile sanctions", an average of 18 days for juveniles and minors posing a danger to themselves or others, and an average of 76 days for those in need of prolonged treatment.

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<sup>43</sup> Consolidation Act No. 1117 of 26 September 2007.

<sup>44</sup> Executive Order No. 893 of 9 July 2007.

<sup>45</sup> The so-called "substitute remand custody" pursuant to Section 765 of the Administration of Justice Act.

<sup>46</sup> That is, a maximum of 4 weeks, which may be prolonged repeatedly by periods of 4 weeks at a time.

<sup>47</sup> See Section 17 of Executive Order No. 893 of 9 July 2007 on the use of force against minors and juveniles removed from their homes under the social legislation.

100. The Bakkegården Secure Department is located in Nykøbing in North-Western Zealand, next to the secure forensic psychiatric unit of Nykøbing Sjælland Psychiatric Hospital. It had four units with a total capacity of 19 and, at the time of the visit, was holding 17 boys and 2 girls. The majority of them (about 80%) had been placed in remand custody pending trial. The remainder were held on preliminary socio-pedagogical observation or prolonged treatment in accordance with the Social Services Act. Around 70% of the detainees were of non-Danish ethnicity.

101. The Sønderbro Secure Department, located in the Copenhagen district of Amager, had three units with a total capacity of 15. At the time of the visit, 14 juveniles were being held in remand custody and one had been placed there for preliminary socio-pedagogical observation. Around 80% of the detainees were of non-Danish ethnicity.

## **2. Ill-treatment**

102. The CPT's delegation did not receive any allegations of ill-treatment of detainees by staff in the two secure departments visited. On the contrary, it observed that relations between staff and detainees were relaxed, even friendly, contributing to a genuinely positive atmosphere.

That said, at the Bakkegården Secure Department the delegation received a number of allegations of inter-detainee violence or intimidation which related to episodes predating the visit by several months. The establishment's management informed the delegation that verbal abuse was not uncommon among some detainees. Staff reportedly tried to counter such behaviour, but it was difficult to put a stop to it altogether. No allegations of inter-detainee violence or intimidation were received at the Sønderbro Secure Department. However, it was clear from interviews with staff and the examination of reports on the use of force that inter-detainee violence did occasionally occur at both establishments, and in some extreme cases the police had been involved. In general, the delegation gained the impression that incidents of inter-detainee violence and intimidation in both establishments were being dealt with in an efficient, comprehensive and proportionate manner.

## **3. Material conditions**

103. Material conditions in the two secure departments visited were on the whole very good. Each detainee had his/her own room, equipped with a fully-partitioned sanitary annex with a shower. The rooms as well as the common areas, including sitting rooms and kitchens, were spacious, light and attractively decorated, contributing to a relaxed and homely atmosphere in the units. Further, the privacy of detainees in their rooms was respected.

104. Meals were prepared in the individual units as part of the daily activities, and detainees ate together with staff. Particular care was taken to provide detainees with healthy and varied food, and special dietary requirements were catered for.

#### **4. Activities**

105. The regimes in place in Bakkegården and Sønderbro were primarily designed to introduce a measure of order and normality into the lives of the detained minors and juveniles, many of whom had repeatedly dropped out of school or work prior to their detention, while at the same time taking into account the need to uphold security, in particular as regards detainees on remand.

In both establishments, minors and juveniles could move freely within their units, but were not allowed to mix with detainees from other units. The day was divided into working hours (8 a.m. to 3.30 p.m.) during which detainees attended school and workshops, and leisure time (after 3.30 p.m.). At regular intervals, each detainee had a so-called “day of duty” on which they assisted in the preparation of meals and the cleaning up of common areas (in addition to the normal duties of tidying up their own room and washing their clothes). Detainees received pocket and clothes money as well as a bonus if they were engaged in the production of goods for sale to outside contractors.

106. A number of workshops was available in addition to educational activities. In Bakkegården, the carpentry and metal workshops were of a professional standard (producing inter alia equipment for golf courses) and were used to introduce juveniles to operating in a professional workshop environment. Due to space limitations, the workshops at Sønderbro were more modest in terms of size and equipment and were basically designed for hobby purposes.

107. Detainees had the possibility to take outdoor exercise for a minimum of one hour a day. In addition, sports activities were offered on a regular basis. Both establishments had well equipped indoor gyms, which were frequently visited by detainees.

As regards other activities, detainees had access to TV and media, could watch movies on DVD players, read books and play electronic and other games.

#### **5. Health care**

108. In both secure departments, somatic (including dental) care was provided through the public health system. General practitioners were available on demand. If a detainee needed a consultation or treatment, staff arranged for a visit to the doctor’s surgery, or alternatively, a visit by the doctor to the establishment.

109. As to arrangements for psychiatric and psychological care, child psychiatrists were attached to the establishments on a contractual basis for a fixed number of hours per week. Sønderbro employed a full-time psychologist who provided various forms of counselling to detainees, including courses on anger management. In Bakkegården, a psychologist was available on a contractual basis.

Particular reference should be made to a girl met at Sønderbro who had been admitted shortly before the delegation's visit. She did not appear to understand any of the languages spoken by staff and delegation members and her behaviour suggested that she might be suffering from a mental condition. The delegation expressed concern about the girl's state of health and indicated that she should be examined by a psychiatrist with the assistance of an interpreter, which was subsequently arranged.

110. The delegation was concerned to note that there was no systematic medical screening of minors and juveniles upon their admission to the secure departments. **The CPT recommends that such a screening be introduced without delay** (see also paragraph 58).

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

### a. staff

111. Staff working at the two secure departments comprised mainly educators, social workers, school teachers, vocational trainers and psychologists. The detainee/staff ratio was generous (on average 1/4).

The CPT's delegation was pleased to note from its interviews with staff and management of the two secure departments that they saw the establishments as having a social rehabilitation role rather than being part of the penal system. Staff members adhered to the policy of "care first, control second" vis-à-vis detainees, trying to play a parental rather than custodial role. In general, the delegation was impressed by the dedication and professionalism of staff.

### b. contact with the outside world

112. Detainees could in principle send and receive an unlimited number of letters, and had access to a telephone every day at certain hours. Calls were put through on behalf of detainees by staff who controlled access to the telephones. Telephone calls with parents were free of charge, whereas other calls had to be paid for in accordance with normal rates. As for calls to lawyers and public authorities, they could take place outside the designated telephone hours and were also free of charge.

113. Further, detainees could receive visits from their families and selected friends. Visits had to be cleared with the establishment at least 24 hours beforehand, and friends intending to visit a detainee had to inform the establishment's management of any criminal record, the management having the power to deny visits from certain persons. Pleasantly decorated visiting areas were provided.

114. As in the case for adult remand prisoners, the police could impose limitations on the visits and other communications of minors and juveniles placed in “substitute” remand custody.<sup>48</sup> The delegation noted that such limitations were applied to almost all detainees in “substitute” remand custody.

Further, the municipality could decide to impose limitations on the visits and communications of other categories of minors and juveniles placed in secure departments, in order to protect their health and development.<sup>49</sup>

The delegation was informed by staff of the two establishments that the limitations on visits and other communications often had a strong negative impact on the minors and juveniles who were already destabilised. The CPT acknowledges that the imposition of limitations on visits and other communications of minors and juveniles placed in secure departments may be legitimate in certain cases, either for the purposes of the police investigation or for the protection of the minor or juvenile concerned. However, such measures should only be imposed very sparingly. **The Committee recommends that the application of limitations on detained juveniles’ and minors’ contact with the outside world be reviewed. The imposition of such limitations should be the exception, not the rule.**

115. Detainees in “substitute” remand custody could apply for accompanied leave outside the secure department and if permission was granted by the police, the management of the establishment provided an escort from among the staff. Similarly, detainees serving a “juvenile sanction” could be granted accompanied leave in agreement with the Ministry of Justice. However, it appeared that the right to leave for minors and juveniles placed under the social legislation was not explicitly provided for; the delegation was informed that in such cases, leave was allowed only after the minor or juvenile had spent at least 30 days at the establishment. **The CPT would like to receive the comments of the Danish authorities on this issue.**

c. means of restraint/isolation

116. Pursuant to Section 123 of the Social Services Act, the use of force against detained minors and juveniles is allowed if deemed absolutely necessary. The precise conditions for applying force are laid down in Executive Order No. 893 of 9 July 2007 on the use of force against children and juveniles removed from their homes. According to it, the use of mechanical restraints is never allowed. A minor or juvenile may be restrained manually and moved to another room. Isolation for a maximum of two hours may exceptionally be applied if a juvenile presents an imminent danger to him/herself or others. In specialised institutions housing juveniles who are violent or suffering from a mental condition, isolation for a maximum of four hours may take place in a specially equipped room. Isolated juveniles should be kept under surveillance throughout the duration of the measure. Any use of force should be reported to the regional authorities in charge of the establishment concerned. The use of force and isolation is not allowed as a disciplinary punishment.

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<sup>48</sup> See Section 14, paragraphs 6, 7 and 8 of Executive Order No. 893 of 9 July 2007 on the use of force against minors and juveniles removed from their homes, together with Sections 771 and 772 of the Administration of Justice Act (Consolidation Act No. 1261 of 23 October 2007).

<sup>49</sup> See Section 14, paragraphs 1-3, of Administrative Order No. 893 of 9 July 2007 and Section 123, paragraph 2, of the Social Services Act.

117. It transpired from the examination of reports on the use of force during the 12 months preceding the CPT's visit that, at both Bakkegården and Sønderbro, resort to force and isolation was had in a sparing and proportionate manner. In a few cases, the use of force had been deemed illegal by the establishment's management and/or the regional authority. The reports themselves were drawn up in a comprehensive way, with precise descriptions of the situation that had led to the use of force as well as the measures applied, including the duration of the measure. The minor or juvenile was always requested to give his/her own version of the events in the report.

d. complaints and inspection procedures

118. Detained minors and juveniles have a range of avenues for complaints. Complaints against staff of the secure department can be lodged with the superintendent of that department, whose decision may be appealed against to the regional authorities in charge of controlling the establishment. Further, complaints concerning decisions of the municipal social authorities to place a minor or juvenile in a secure department can be filed with the municipality, whose decisions can in turn be appealed against to the Social Board of the region in question and, in certain cases, the National Social Appeals Board can examine the complaint. The courts are competent to deal with complaints concerning the imposition of limitations on visits and correspondence. Detained minors and juveniles also have the right of confidential access to the Parliamentary Ombudsman and the Section 71 Committee of the Danish Parliament (which oversees the treatment of administratively detained persons).

119. As regards external supervision, both establishments had received visits from the Parliamentary Ombudsman and the Section 71 Committee of the Danish Parliament. Further, the regional authorities carried out regular inspections of the establishments. The Ombudsman's visit reports are regularly made public (including on the internet).

## **E. Psychiatric establishments**

### **1. Preliminary remarks**

120. The delegation carried out targeted visits to two psychiatric establishments: the Psychiatric Department E of Bispebjerg Hospital, and the Maximum Security Department (“*Sikringsafdelingen*”) of Nykøbing Sjælland Psychiatric Hospital. The latter establishment had been visited by the CPT in 2002. The focus of the visits was on the use of immobilisation, a matter of considerable concern to the CPT at the time of the 2002 visit.

121. Bispebjerg Hospital is situated in Copenhagen. Psychiatric Department E forms part of an extensive hospital complex dealing mainly with somatic illnesses, but was. The department has four closed wards with ten beds each, as well as four open wards (not visited by the delegation). At the time of the visit, the closed wards were running at full capacity and were accommodating a mixture of forensic and civil patients.

122. Nykøbing Sjælland Psychiatric Hospital is located away from the residential area of the town of Nykøbing Sjælland, in North-Western Zealand. The Maximum Security Department is the only one of its kind in Denmark and receives patients who are considered too dangerous to be placed in other closed forensic or civil wards. It has a capacity of 30 beds which were all in use at the time of the visit.

### **2. Ill-treatment**

123. The delegation received no allegations of physical ill-treatment of patients by staff at the two establishments visited.

124. However, the CPT remains seriously concerned about the prolonged use of physical immobilisation of psychiatric patients (“*fiksering*”).

In the Psychiatric Department E of Bispebjerg Hospital, certain patients had been physically immobilised for up to 6 days at a time. As regards the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital, the use of prolonged physical immobilisation of patients was even more alarming. In one extreme case, a patient had been restrained to his bed for 6 months because of violent behaviour. In another case, a patient had been restrained to his bed for almost 4 months, also due to violent behaviour. In yet another case, a patient had been restrained to her bed for more than a month.

Patients were immobilised by attaching them to their bed (or to a bed in a specially equipped room, designed to minimise stimuli) by means of an abdominal belt and at times additionally with straps to the ankles and wrists. An immobilised patient remained attached in this manner throughout the day and night, including during meal times. Patients could be released to use the lavatory or be required to urinate into a bed pan while remaining attached. When released to go to the lavatory or taken to a shower room, some patients continued to wear an abdominal belt.

Further, at the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital, the delegation noted that patients were immobilised in full view of other patients (despite a recommendation made in the 2002 report against this practice).<sup>50</sup>

Although the registers of immobilisation were generally kept in good order, the delegation observed that the doctors' signatures confirming the review of decisions to physically immobilise patients were sometimes missing. Further, the protocols for reporting immobilisation consisted mainly of boxes to be ticked, without much space for individual comments.

125. It transpired from interviews with staff at the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital that there was some disagreement amongst staff on the issue of immobilisation. One of the psychiatrists had reportedly resigned because of opposition by care staff to his attempts to limit immobilisation. There was a feeling of insecurity amongst staff and some had apparently proposed the introduction of "forward-looking means of coercion", e.g. the prescription of 3 months' immobilisation if a patient is violent.

126. In the 2002 visit report, the CPT stressed that applying instruments of physical restraint to psychiatric patients for days on end cannot have any medical justification and amounts, in the Committee's view, to ill-treatment.

The Danish authorities acknowledged the need for addressing the issue of long-term immobilisation, and introduced certain amendments to the Law on the deprivation of liberty and use of force in psychiatry (in force since 1 January 2007), with a view to strengthening the protection of patients subjected to immobilisation and reducing the use of physical restraints.<sup>51</sup> In particular, following the amendments, medical assessment of immobilisation should take place at least four times a day at evenly-spaced intervals. Immobilisation lasting for more than 24 hours should be reported in a special protocol. Further, the decision to extend immobilisation beyond 48 hours is subject to review by an outside, independent, psychiatrist. Moreover, patients have the right to request that the legality of immobilisation be reviewed by a court. The mandatory patient adviser scheme has also been extended to include immobilisation.

However, pursuant to the Law on the deprivation of liberty and use of force in psychiatry, physical immobilisation can only take place in so far as it is necessary to prevent a patient from placing himself or others at risk, harassing or seriously verbally abusing other patients, or causing significant material damage.<sup>52</sup> In the CPT's opinion, this formulation opens the door to abuse. In particular, the law does not stipulate that the application of physical immobilisation should stop as soon as the danger of causing harm has ceased to exist and does not set limits on the duration of the measure. Further, no provision is made for another independent assessment of the need to keep a patient immobilised beyond the one envisaged at the expiry of the first 48 hours.

The CPT is also very concerned by the provision according to which only immobilisation lasting for more than 24 hours is reported in a special protocol (as opposed to all cases of immobilisation).

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<sup>50</sup> See paragraph 76 of CPT/Inf (2002) 18.

<sup>51</sup> See Consolidation Act No. 1111 of 1 November 2006.

<sup>52</sup> See Section 14 of the Law on the deprivation of liberty and use of force in psychiatry Consolidation Act No. 1111 of 1 November 2006.



127. The CPT recognises the difficulties in dealing with violent or disruptive patients, in particular at an institution like the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital, which accommodates the most dangerous psychiatric patients in Denmark. However, as a general rule, a patient should only be restrained as a measure of last resort: an extreme action applied in order to prevent imminent injury or to reduce acute agitation and/or violence. When, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a sanction for perceived misbehaviour or as a means to bring about a change in behaviour. The use of immobilisation cannot and should not replace proper psychiatric treatment and care. Furthermore, it should not be a substitute for proper staff resources.

**The CPT calls upon the Danish authorities to review the legislation and practice of immobilising psychiatric patients as a matter of urgency. In doing so, the authorities should take into consideration the following principles and minimum standards:**

- Regarding their *appropriate use*, means of restraint should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain that risk; they should never be used as a punishment or to compensate for shortages of trained staff.
- *Staff* must be *trained* in the use of the equipment. Such training should not only focus on instructing staff as to how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient.
- The *duration* of the application of means of mechanical restraint should be for the shortest possible time (usually minutes or a few hours). The exceptional prolongation of restraint should warrant a further review by a doctor.
- A restrained patient should *not be exposed to other patients*.
- As regards *supervision*, whenever a patient is subjected to means of mechanical restraint, a trained member of staff should be continuously present in order to maintain the therapeutic alliance and to provide assistance. Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping him/her to consume food.
- Every instance of the use of means of restraint – *whether physical or chemical* – of a patient must be *recorded in a specific register* established for that purpose, in addition to the individual's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by the person or staff. This will greatly facilitate both the management of such incidents and oversight into the extent of their occurrence.
- Persons subject to means of restraint should receive *full information* on the reasons for the intervention as soon as practicable.

128. In the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital, the delegation came across a new form of physical immobilisation, whereby the patient's arms were attached to a belt and the feet attached to each other by straps, thus permitting the patient to walk around while remaining physically restrained. Such a form of physical immobilisation could be considered as degrading. Following the visit, the Danish authorities stated that the form of physical immobilisation in question was not provided for in Danish legislation and was therefore illegal; the authorities of the Sjælland region have reportedly been informed accordingly. **The CPT would like to receive confirmation that the use of the above-mentioned form of physical immobilisation has been discontinued.**

### 3. Staff resources

129. The Danish authorities acknowledge that there is a general shortage of qualified staff in psychiatric wards. To overcome the problem, the Government has launched a "Quality Reform" which involves, inter alia, improvement in the continuous education of doctors and nurses.

130. At *Bispebjerg Hospital*, the four closed wards had a total of 3 head doctor (psychiatrist) posts; at the time of the visit, two of the doctors were away on vacation. There were also one or two ward doctors on a daily basis, covering all four wards. The shortage of psychiatrists had resulted in a change of the traditional role distribution, giving more responsibilities to ward staff. Temporary replacements of psychiatrists (including head doctors) were common.

There was an occupational therapist on each ward. As regards nursing staff, there was reportedly an ongoing recruitment problem and resort was often had to an agency for employing temporary staff. This clearly had an impact on the continuity of care and the provision of outdoor exercise to patients (see paragraph 134).

131. Staff recruitment problems at *Nykøbing Sjælland Psychiatric Hospital* has led to plans to move the establishment to a new location, closer to urban areas where it would be easier to employ qualified staff. Nevertheless, the number of doctors working in the Maximum Security Department has increased to 5 (as compared to 2.5 in 2002); of them, 3 were psychiatrists, one was completing training as a psychiatrist, and one was a general practitioner who had worked in psychiatry for 20 years. Further, as recommended by the CPT in the 2002 visit report, the number of psychologists had increased (from 1 in 2002, to 3 in 2008). This is a welcome development.

The department employed a total of 8 nurses. Each ward had a head nurse and two other nurses during the day; at night, there was only one nurse for the whole department and the forensic ward in another building. The lack of ward staff had led to the employment of 12 security staff from a private company, who had been selected according to a profile prepared by the department's psychiatrists and who had undergone a 3-week training course.

As regards other staff, there was an occupational therapist on each ward, as well as a number of "activity staff" for the whole hospital (including educators, sports instructors and a music therapist).

132. **The CPT recommends that the Danish authorities strive to reinforce staffing levels in the psychiatric establishments visited, in particular by increasing the number of nursing staff at the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital and the number of psychiatrists at the Psychiatric Department of Bispebjerg Hospital. Further, efforts should be made to improve the continuous training of doctors and nurses.**

#### **4. Patients' living conditions**

133. Living conditions of patients at both establishments were generally very good, and were quite impressive in the closed wards of Bispebjerg Hospital. The patients' rooms and common areas were spacious, light and well-equipped. In the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital, where the average length of stay was six years, patients had the possibility to decorate their rooms and bring their own furniture.

However, access to bathrooms in the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital could be improved (ten patients shared one bathroom); the delegation was informed that the Maximum Security Department was expected to move to new premises in Slagelse in the near future. **The CPT would like to receive up-to-date information on this issue.**

134. At Bispebjerg Hospital, patients' access to outdoor exercise was limited due to the lack of staff (see paragraph 130) and the convoluted process of reaching the yards, a problem especially for those accommodated in the wards on the upper floors. The delegation was informed of plans to improve access to outdoor exercise. **The CPT would like to receive confirmation that steps have been taken at the Psychiatric Department of Bispebjerg Hospital to ensure that all patients whose medical condition so allows benefit from at least one hour of outdoor exercise a day in satisfactory conditions.**

#### **5. Treatment**

135. In the two establishments visited, patients received individualised treatment, which included medication and comprised various forms of psycho-social therapy (e.g. psychotherapy, occupational therapy, art therapy). However, the shortage of staff clearly had an impact on the overall quality of the treatment, and some patients at Bispebjerg Hospital complained about the insufficient presence of doctors.

136. Particular reference should be made to the case of one patient held in the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital. This patient (diagnosed with schizophrenia) had so far responded negatively to a range of psycho-active medication tried out by doctors. At the time of the visit, he was immobilised and had been kept locked in his room since May 2007, because of being aggressive to staff. The patient complained that he had not been able to take a shower for several weeks; this was confirmed by staff. **The CPT recommends that the Danish authorities review the situation of the patient in question as a matter of urgency.**

137. In the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital, patients could be locked up in their rooms, by a decision of a doctor. Pursuant to Sections 18a and 18b of the Law on the deprivation of liberty and use of force in psychiatry, this measure may be authorised in order to establish the necessary conditions for the patient's treatment, to shield the patient against excessive stimulation, or for the same reasons as those governing resort to physical immobilisation. In addition, the measure may be authorised at night or during staff's daily and weekly conferences.

The delegation noted that, in certain cases, resort to confinement of patients to their rooms was had for prolonged periods (e.g. one patient had been locked up since May 2007, see paragraph 136). **The CPT would like to receive the comments of the Danish authorities on the therapeutic grounds for this practice.**

## 6. Safeguards for psychiatric patients

138. The legal framework pertaining to involuntary hospitalisation (both civil admission and placement ordered by a court) has been summarised in the 2002 visit report.<sup>53</sup> Danish legislation provides a series of formal safeguards for psychiatric patients, which in many respects can be considered as adequate. Consequently, this report will concentrate only on the issues where further improvement is necessary.

139. The system of patient advisers, although well-intended, appears to leave much to be desired in terms of providing a truly efficient safeguard for patients, mainly because of the lack of specialised training for the advisers, who usually do not have a medical or legal background. **The CPT recommends that targeted introduction courses to the psychiatric health system and patients' rights be made obligatory for all patient advisers.**

140. A voluntary stay in hospital may be transformed into an involuntary retention by the sole decision of the head doctor. The CPT recommended in the 2002 visit report that such a step require an opinion from a second doctor who is independent of the hospital.

The Danish authorities are of the opinion that the existing safeguards are fully satisfactory and does not consider that such a two-stage examination procedure will increase the legal protection of this category of patients.<sup>54</sup>

The CPT begs to differ. **An opinion from a second doctor who is independent of the hospital would offer a further, important, safeguard in the context of the transformation of voluntary stays into involuntary placements and would align the safeguards offered in such cases with those of other involuntary patients.**

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<sup>53</sup> See paragraph 69 of CPT/Inf (2002) 18.

<sup>54</sup> See response of the Danish authorities to the 2002 visit report, CPT/Inf (2007) 46.

141. In the 2002 visit report, the CPT recommended that steps be taken to ensure that all forensic in-patients benefit, without exception, from the appointment of a representative with the same skills and duties as patient advisers. **The Committee would like to receive confirmation that this is the case.**

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142. Finally, despite the fact that statistical data on physical immobilisation is collected centrally, it was very difficult for the CPT's delegation to obtain a precise idea of the use of immobilisation in the individual establishments visited. This was apparently due to the fact that the establishments did not have access to the central electronic register and could not draw information from it. In order for the registration of data to have an effect on practice, regular feedback should be provided to each establishment; this is important for raising the awareness of staff as regards the degree to which force is used in their establishment in comparison to other establishments in Denmark. Following the visit, the Ministry of Health and Prevention indicated that the National Board of Health has been requested to provide information to psychiatric on an ongoing basis on this matter.

**The CPT would like to be provided with statistical information on the use of immobilisation in psychiatric establishments in Denmark in 2007.**



## **APPENDIX I**

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

#### **Cooperation**

##### comments

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

#### **Police establishments**

##### **Ill-treatment**

##### comments

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

##### requests for information

- detailed information on the recommendations of the studies of police interaction with youths from ethnic minorities, and the steps taken to ensure their implementation (paragraph 11);
- the conclusions of the report set up to evaluate the current system for handling complaints against the police and processing criminal cases against police officers (paragraph 12);

- in respect of 2006 and 2007:
  - the number of complaints of ill-treatment made against police officers, with a breakdown into types of ill-treatment alleged;
  - the number of criminal and disciplinary proceedings instituted as a result of these complaints;
  - an account of criminal and disciplinary sanctions imposed (paragraph 12).

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

#### recommendations

- legal provisions to be adopted to ensure that all persons detained by the police have a formally recognised right to inform a relative, or another third party of their choice, of their situation, as from the very outset of their detention. Any possibility exceptionally to delay the exercise of this right should be clearly circumscribed in law and made subject to appropriate safeguards (i.e. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor) (paragraph 16);
- steps to be taken to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of custody (paragraph 17);
- persons detained under the Aliens Act to be guaranteed a right of access to a lawyer as from the very outset of their custody (paragraph 17);
- police officers to be firmly reminded that they should not seek to dissuade detained persons from exercising their right of access to a lawyer (paragraph 17);
- steps to be taken to bring the relevant regulations and practice concerning the confidentiality of medical examinations of persons in police custody in line with the considerations outlined in paragraph 19 (paragraph 19);
- a specific record to be kept of the fact that detained persons have been provided with information on their rights; detained persons should be asked to certify with their signature that such information has been provided and, if necessary, the absence of a signature in a given case should be explained (paragraph 20).

#### comments

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



- it would be desirable for detained persons to be provided with feedback on whether it had been possible to notify a close relative or other person of the fact of their detention (paragraph 16);
- the Danish authorities are invited to reconsider introducing electronic recording of police interviews (paragraph 21).

#### requests for information

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

### **Conditions of detention**

#### comments

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

### **Prisons**

#### **Ill-treatment**

#### recommendations

- staff at the Western Prison and East Jutland State Prison to be reminded that they must always treat prisoners in their custody with respect (paragraph 26);
- the Danish authorities to ensure that the use of handcuffs and transportation belts during prisoners' transportation outside and within prisons is done only when the risk assessment in the individual case clearly warrants it and in a way that minimises any risk of injury to the prisoner. Given the potential for discomfort and the risk of injury in case of accident, the practice of handcuffing prisoners behind the back during transportation should be avoided; prisoners should be transported instead in secure vans, thereby obviating the need for them to be handcuffed during the journey (paragraph 27);
- appropriate steps to be taken to ensure that prisoners at the Police Headquarters Prison in Copenhagen have ready access to a proper toilet facility at any time of the day or night (paragraph 28).

comments

- the CPT trusts that the management of East Jutland State Prison will make use of all means at its disposal to ensure that constructive staff-inmate relations prevail at the establishment. This will involve *inter alia* regular presence of prison managers in the detention areas, their direct contact with prisoners, and investigating complaints made by prisoners (paragraph 25);
- it would be desirable to set up a race relations monitoring committee in each prison (paragraph 26).

requests for information

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

**Inter-prisoner violence and intimidation**

comments

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

**Prisoners subject to special regimes**

recommendations

- “negatively strong” prisoners at East Jutland State Prison to be allowed access to the grassed areas outside their units, within the secure perimeter of Building E (paragraph 33);
- the decision to place a prisoner in a unit for “negatively strong” prisoners to be reviewed at regular intervals. Further, prisoners should as far as possible have access to information concerning the reasons for their placement in a unit for “negatively strong” prisoners (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security) and should have the right to appeal to an outside authority (e.g. a court) against placement or extension of placement in such a unit (paragraph 34);

- the Danish authorities to review the situation at the Police Headquarters Prison in Copenhagen, in the light of the remarks in paragraph 37. As regards more particularly the allocation of remand prisoners to the establishment, all placements to be reviewed on a regular, maximum three-monthly, basis. In this context, prisoners should as far as possible be kept informed of the reasons for their placement (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to the investigation and security) and should have the right to appeal to an outside authority (e.g. a court) (paragraph 37);
- steps to be taken to refurbish the shower and toilet facilities at the Police Headquarters Prison in Copenhagen, and to verify that the quality of the food provided to prisoners is satisfactory (paragraph 37);
- the Danish authorities to develop a national approach to address the issue of prisoners seeking isolation for their own protection (paragraph 40).

#### comments

- the Danish authorities are invited to seek to develop regimes in units for “negatively strong” prisoners and, in particular, to promote some resocialisation in the way of preparation for release. Continued efforts should to be made to develop positive relations between staff and prisoners. Staff working in these units should be provided with enhanced training and encouraged to engage more with prisoners (paragraph 33);
- the Danish authorities are invited to take the considerations outlined in paragraph 38 into account in the operation of the high security unit at East Jutland State Prison. The same considerations apply *mutatis mutandis* to the Police Headquarters Prison in Copenhagen (paragraph 38).

#### requests for information

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

### **Solitary confinement of remand prisoners by court order and other restrictions**

#### recommendations

- the Danish authorities to make continued efforts to ensure that remand prisoners are only placed in solitary confinement in exceptional circumstances which are strictly limited to the actual requirements of the case (paragraph 42);
- the Danish authorities to pursue their efforts to provide remand prisoners placed in judicially-imposed solitary confinement with increased staff contact and access to tuition, work and other activities, in order to counteract the negative effects of being placed in solitary confinement (paragraph 42);

- the Danish authorities to implement without further delay the CPT's recommendations on the issue of police-imposed restrictions on remand prisoners contacts with the outside world, namely:
  - that the police be given detailed instructions as regards recourse to prohibitions/restrictions concerning prisoners' correspondence and visits;
  - that there be an obligation to state the reasons in writing for any such measure;
  - that, in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters be considered as a separate issue(paragraph 44);
- the practice of prohibiting remand prisoners' access to a telephone to be reviewed and made subject to the same safeguards as those referred to above in respect of correspondence and visits (paragraph 44).

### **Conditions of detention for prisoners in general**

#### recommendations

- a more appropriate outdoor exercise facility to be provided at Nyborg State Prison for prisoners held in disciplinary isolation or placed in judicially-imposed solitary confinement (paragraph 52);
- steps to be taken without further delay to improve exercise arrangements for prisoners in solitary confinement at the Western Prison (paragraph 55).

#### comments

- the management of East Jutland State Prison is encouraged to make full use of the available facilities for prisoners' activities and to seek to engage more prisoners in them (paragraph 48);
- at Nyborg State Prison, some prisoners indicated that there were occasionally delays in obtaining access to a toilet (paragraph 50);
- at Nyborg State Prison, a number of complaints were heard about the poor quality of the food provided to prisoners excluded from association (paragraph 51);
- the managements of Nyborg State Prison and the Western Prison are encouraged to continue making efforts to engage more prisoners in work and other purposeful activities (in particular, education and vocational training) (paragraphs 52 and 56).

#### requests for information

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

## **Health-care services**

### recommendations

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

### comments

- the initial medical screening of all persons admitted to a prison should be obligatory, not an option offered to them (see also Rule 42.1 of the European Prison Rules) (paragraph 58);
- the Danish authorities are encouraged to pursue their efforts in the field of drug prevention in prisons, by ensuring that appropriate health care services and life skills rehabilitation for inmates with drug problems are available in all prison establishments (paragraph 62).

### requests for information

- developments concerning a pilot project on the screening of prisoners for somatic illnesses (paragraph 59);
- comments of the Danish authorities on the existing problems of transfer of prisoners in need of psychiatric treatment to specialised establishments (paragraph 61);
- the outcome of the pilot project for the early identification of mental illnesses amongst remand prisoners (paragraph 61).

## **Other issues of relevance to the CPT's mandate**

### recommendations

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

comments

- when a prison is constructed a distance away from all means of public transport, the Prisons and Probation Service should take responsibility for providing affordable transport to the prison on a regular basis (paragraph 63);
- the CPT has reservations about the use of prisoners as interpreters for other prisoners during disciplinary hearings. If, exceptionally, recourse is had to such an approach, the consent of the prisoner facing disciplinary charges should be carefully documented (paragraph 66);
- the Danish authorities are encouraged to continue monitoring the imposition of disciplinary sanctions in order to ensure that they are always proportionate to the offence (paragraph 67);
- the Danish authorities are encouraged to pursue their policy of systematic registering and speedy handling of complaints. A structured approach to complaints can be a useful tool in identifying issues to be addressed at a general level. In this context, the management of each prison should be provided with regular (e.g. quarterly) reports on the complaints registered (paragraph 72).

requests for information

- comments on the issues concerning visits raised in paragraph 64 (paragraph 64);
- the outcome of the tests carried out on the ventilation system in the disciplinary cells at East Jutland State Prison (paragraph 68).

**The Herstedvester Institution**

comments

- more attention should be paid to ensuring that the safeguards surrounding the medical libido-suppressing treatment of sex offenders are being fully respected in practice. In particular, special care should be taken to make sure that prisoners' consent to medical libido-suppressing treatment is genuinely free and informed. In this connection, the provision of full information (oral and written) on the known adverse effects – as well as the possible benefits – of the treatment, should be improved. Further, no prisoner should be put under undue pressure to accept medical libido-suppressing treatment (paragraph 78);
- in addition to drug treatment, efforts should be made to step up psychotherapy and counselling with a view to reducing the risk of re-offending (paragraph 78);
- the present system of detention for prisoners from Greenland has a number of undesirable effects which could be avoided if such prisoners were able to serve their sentences in Greenland (paragraph 79);
- the project for the construction of a new institution in Greenland should be given high priority (paragraph 80).

requests for information

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

**Establishments for foreign nationals detained under aliens' legislation**

**Ill-treatment**

recommendations

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

**Conditions of detention**

recommendations

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

comments

- the Danish authorities are invited to consider enabling persons detained at the Ellebæk Institution to prepare their own food (paragraph 86);
- the Danish authorities are encouraged to enlarge the offer of purposeful activities to persons held at the Ellebæk Institution (e.g. provision of books and recent newspapers in various foreign languages, games, etc.). The longer the period for which persons are detained, the more developed should be the activities which are offered to them, including the possibility to acquire skills that may prepare them for reintegration in their countries of origin upon return (paragraph 88).

**Health care**

recommendations

- the Danish authorities to take urgent steps to introduce systematic medical screening of all persons admitted to the Ellebæk Institution as soon as possible after their admission (paragraph 90);
- measures to be taken to ensure regular attendance by a psychiatrist and a psychologist at the Ellebæk Institution and to step up psycho-social interventions (paragraph 91).

## **Other issues**

### recommendations

- all custodial staff at the Ellebæk Institution to be required to wear some form of identification in a visible place on their uniform (paragraph 94);
- steps to be taken to ensure that the information leaflet about the administrative detention of foreigners and the regime applicable is systematically provided to all detained persons upon their arrival at the Ellebæk Institution (paragraph 95).

### comments

- the CPT trusts that the Danish authorities will be able to provide the services of an imam at the Ellebæk Institution in the near future (paragraph 92);
- the Prison and Probation Service are urged to continue focusing on the special training needs of custodial staff dealing with immigration detainees (paragraph 93);
- in case of use, adequate heating should be provided in the disciplinary cells at the Ellebæk Institution (paragraph 97).

## **Establishments for juveniles and minors**

### **Health care**

#### recommendations

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

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

#### recommendations

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

#### requests for information

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



## **Psychiatric establishments**

### **Ill-treatment**

#### recommendations

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

#### requests for information

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

### **Staff resources**

#### recommendations

- the Danish authorities to strive to reinforce staffing levels in the psychiatric establishments visited, in particular by increasing the number of nursing staff at the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital and the number of psychiatrists at the Psychiatric Department of Bispebjerg Hospital (paragraph 132);
- efforts to be made to improve the continuous training of doctors and nurses (paragraph 132).

### **Patients' living conditions**

#### requests for information

- up-to-date information on the plans to move the Maximum Security Department of Nykøbing Sjælland Psychiatric Hospital to new premises in Slagelse (paragraph 133);
- confirmation that steps have been taken at the Psychiatric Department of Bispebjerg Hospital to ensure that all patients whose medical condition so allows benefit from at least one hour of outdoor exercise every day in satisfactory conditions (paragraph 134).

### **Treatment**

#### recommendations

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

requests for information

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

**Safeguards for psychiatric patients**

recommendations

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

comments

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

requests for information

- confirmation that all forensic in-patients benefit, without exception, from the appointment of a representative with the same skills and duties as patient advisers (paragraph 141);
- statistical information on the use of immobilisation in psychiatric establishments in Denmark in 2007 (paragraph 142).

**APPENDIX II**

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

**A. National authorities**

**Ministry of Justice**

Lene ESPERSEN	Minister for Justice
Lars HJORTNÆS	Deputy Permanent Secretary of State
Jens RØN	Head of Division
Barbara BERTELSEN	Legal Adviser
Lars SOLSKOV LIND	Head of Section

*Danish Prison and Probation Service*

William RENTZMANN	Director General
Annette ESDORF	Deputy Director General
Anette LØNDAHL	Adviser

*Office of the National Commissioner of Police*

Mogens HENDRIKSEN	Deputy National Commissioner
Hans-Viggo JENSEN	Deputy National Commissioner
Birgit KLEIST	Head of Department, National Danish Police
Carsten EGEBERG CHRISTENSEN	Senior Chief Prosecutor, Copenhagen Police
Arne GRAM	Deputy Commissioner, Funen Police
Benny TOLLESTRUP	Chief Superintendent, South-East Jutland Police

*Office of the Director of Public Prosecutions*

Jesper HJORTENBERG	Deputy Director
Allessandra GIRALDI	Deputy Chief Prosecutor

**Ministry of Foreign Affairs**

Jens FÆRKEL	Minister Counsellor
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**Ministry of Refugee, Immigration and Integration Affairs**

Susanne VEIGA	Senior Legal Adviser
Anne-Marie TRÆHOLT	Head of Section

**Ministry of Health and Prevention**

Steffen EGESBORG HANSEN	Deputy Permanent Secretary of State
Sven Erik BUKHOLT	Adviser

**Ministry of Welfare**

Frode SVENDSEN	Senior Adviser
Anne BÆKGAARD	Special Adviser
Kristian FOGED	Head of Section
Michael HARBOE PAULSEN	Head of Section
Ellinor COLMORTEN	Head of Section

**Ministry of Defence**

Eva LIPPERT	Head of Section
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**Office of the Parliamentary Ombudsman**

Hans GAMMELTOFT-HANSEN	Parliamentary Ombudsman
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**Other authorities**

Annette GJERRIS	Director General, Psychiatry Department, Regional Council of the Capital Region of Denmark
Susanne BECK PETERSEN	Adviser, Regional Council of the Capital Region of Denmark
Heinz REUGBOE	Region Sjælland

**B. Non-governmental organisations**

Landsforeningen SIND  
The Danish Refugee Council  
KRIM  
Romano

