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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 28 January to 4 February 2002

The Danish Government has requested the publication of this report.

Strasbourg, 25 September 2002

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Copy of the letter transmitting the CPT's report

Strasbourg, 14 August 2002

Dear Mr Klingenberg,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Denmark drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Denmark from 28 January to 4 February 2002. The report was adopted by the CPT at its 48th meeting, held from 2 to 5 July 2002.

I would draw your attention in particular to paragraph 121 of the report, in which the CPT requests the Danish authorities to provide within **six months** a response setting out the action taken upon its visit report. 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 electronic form.

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

Yours sincerely,

Silvia CASALE
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Denmark from 28 January to 4 February 2002. The visit formed part of the Committee's programme of periodic visits for 2002. It was the CPT's third visit to Denmark.¹

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

- Renate KICKER, Head of delegation
- Mario FELICE
- Eugenijus GEFENAS
- Pétur HAUKSSON
- Mauro PALMA.

They were assisted by:

- Baden Henry SKITT, member of the Criminal Cases Review Commission, United Kingdom (expert)
- Lena Louise Solveig FLUGER (interpreter)
- Jan Als JOHANSEN (interpreter)
- Annette LARSEN (interpreter)
- Maia Gwen Jane NIELSEN (interpreter)
- Anne ZOEGA (interpreter)

and were accompanied by the following members of the CPT's Secretariat:

- Hanne JUNCHER
- Cyrille ORIZET.

¹ The first two visits took place in December 1990 and in September/October 1996.

B. Establishments visited

3. The delegation visited the following places:

Police establishments

- Copenhagen Police Station No. 1
- Copenhagen Police Station No. 6
- Elsinore Police Headquarters
- Glostrup Police Headquarters
- Horsens Police Headquarters

Prisons

- Elsinore Local Jail
- Horsens State Prison
- Sandholm Foreigners Detention Centre
- Vridsløselille State Prison

Psychiatric establishments

- Glostrup Hospital Psychiatric Departments
- Haderslev Hospital Psychiatric Department
- Nykøbing Sjælland Psychiatric Hospital

C. Cooperation between the CPT and the Danish authorities

4. The cooperation received by the CPT's delegation from the Danish authorities during the visit was excellent.

The CPT is grateful to Lene ESPERSEN, Minister for Justice, for the time she devoted to the delegation. During the visit, the delegation also met William RENTZMANN, Director General of the Prison and Probation Service, and had fruitful discussions with Annette ESDORF, Deputy Director General of the Prison and Probation Service, Lene FRANK, Assistant National Commissioner of Police, and other senior officials. In addition, the delegation held useful talks with Hans GAMMELTOFT-HANSEN, Parliamentary Ombudsman.²

The CPT also wishes to highlight the assistance and information received both during and after the visit from the liaison officers appointed by the Danish authorities.

² The complete list of authorities and non-governmental organisations active in areas of concern to the CPT with which the delegation held talks is set out in Appendix II to this report.

5. Management and staff at local level provided the same level of cooperation. In particular, the delegation had a very good reception in, and rapid access to, all of the establishments visited, including those which had not been notified in advance of the CPT's intention to carry out a visit. The management of the places of detention visited had been informed of the possibility of a visit by the Committee and, in general, had a good understanding of its mandate and powers.

Further, the CPT is pleased to note that some officials in establishments which received a follow-up visit were familiar with the report on the Committee's 1996 visit.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

6. The main rules governing detention by the police have been summarised in the reports on previous CPT visits to Denmark (cf. for example, the report on the 1990 visit; CPT/Inf (91) 12, Appendix 2). It should be recalled in particular 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 hours³. 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.⁴

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 hours⁵.

2. Ill-treatment

7. The CPT's delegation heard no allegations of ill-treatment of persons held in police establishments, and found no other evidence of such treatment. Moreover, the great majority of persons met by the CPT's delegation who were or who had previously been detained by the police indicated that they had been correctly treated by the police throughout their period in custody.

However, one person complained that, at the time of his arrest, he had been punched on the head and kicked by the arresting officer and bitten by a police dog. Another alleged that, also at the time of arrest, she had been thrown to the ground and that a police officer had knelt on her back.

8. In the report on its 1996 visit, the CPT underlined that no more force than is reasonably necessary should be used when effecting an arrest and made several recommendations with a view to ensuring that this principle is adhered to (cf. CPT/Inf (97) 4, paragraphs 12 to 14 and 16).

The Danish authorities took action in the light of the Committee's recommendations, including by reviewing authorised self-defence holds and techniques and discontinuing use of the fixated leg lock (cf. CPT/Inf (97) 14, R.1). The CPT has also noted that detailed guidance has been issued on the use of dogs by the police⁶.

³ Cf. Article 71 of the Constitution of 5 June 1953, as well as Articles 760, 762 and 767 of the Administration of Justice Act, of 11 April 1916 (as amended).

⁴ The issue of solitary confinement of remand prisoners by court order (isolation) will be examined in the chapter on prisons (cf. paragraphs 36 to 39).

⁵ Cf. Articles 36 and 37 of the Aliens (Consolidation) Act, of 1 August 2001.

⁶ Notification I. No. 40 issued by the National Police Commissioner on 22 August 1997.

The CPT welcomes the above-mentioned measures; however, according to statistics from the National Police Commissioner, the number of persons injured at the time of their arrest by dogs used by the police has increased steadily in recent years (from 65 in 1998 to 113 in 2001)⁷.

The Committee invites the Danish authorities to remind police officers in an appropriate manner, at regular intervals, that no more force than is strictly necessary should be used when effecting an arrest. Further, it would like to receive information on the number of persons injured in 2002 by dogs used by the police.

3. Conditions of detention

9. The CPT set out the general criteria it employs vis-à-vis conditions of detention in police stations in its previous visit report (cf. CPT/Inf (97) 4, paragraph 17).

On the whole, the cellular accommodation seen in the five police establishments visited in 2002 met those criteria. In particular, cells were of an adequate size (e.g. 7 m² for one person), well lit and ventilated and equipped with a means of rest. The cells were clean and detained persons were offered a mattress and blankets.

10. Although the cells at Horsens Police Headquarters offered satisfactory conditions of detention, the same cannot be said about the holding rooms of the Criminal Investigation Police, which were already criticised by the CPT following its 1996 visit (cf. CPT/Inf (97) 4, paragraph 22). Two of the rooms were small (2.8 m²), had no access to natural light or ventilation and were wired to equipment that played loud music when the lights were switched on (i.e. whenever detained persons were being held in them). Those rooms were claustrophobic and generated an unacceptably intimidating atmosphere. The two other holding rooms at Horsens were of an adequate size (6 m²) and had some access to natural light and ventilation; however, they were dirty and the walls were in need of painting.

The CPT recommends that the 2.8 m² holding rooms of the Horsens Criminal Investigation Police - and any other similar holding facilities in Denmark - be withdrawn from service. Steps should also be taken to ensure that all detention facilities, including the two larger holding rooms at Horsens, are kept in a satisfactory state of cleanliness and repair.

11. As regards sanitary arrangements, on the whole facilities for detained persons were satisfactory; they were clean and in a good state of repair and offered adequate privacy. However, at Station No. 1 in Copenhagen, holding on occasion up to 60 persons, there were only two toilets. **The CPT would like to receive confirmation that persons detained at that establishment are guaranteed ready access to toilet facilities.**

⁷ The total number of persons injured by dogs used by the police has risen in the same proportion during that period, from 81 to 142.

4. Safeguards against the ill-treatment of detained persons

a. introduction

12. In previous visit reports, the CPT examined in detail the formal safeguards against ill-treatment which are offered to persons detained by the police in Denmark. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer, and to have access to a doctor. It is equally fundamental that persons detained by the police be informed without delay of all their rights, including those mentioned above (cf. CPT/Inf (97) 4, paragraph 25).

13. Since the last visit by the CPT, the Danish authorities have issued instructions to the police and the prosecution service (Ministry of Justice Circular of 20 January 1997 and revised Circular of 20 June 2001) designed to reinforce the above-mentioned safeguards, and have drawn up information documents for distribution to detained persons (cf. *inter alia* CPT/Inf (97) 14, R.8).

The CPT welcomes these developments. However, the delegation which carried out the 2002 visit found that the Ministry of Justice instructions were not being applied systematically by the police; as a result, the safeguards advocated by the CPT were still not wholly effective in practice. This clearly shows the need to give a firmer legal basis to the provisions relating to the fundamental safeguards referred to in the foregoing paragraph; this would be in the interests of both the prevention of ill-treatment and the protection of the police against false allegations.

b. notification of custody

14. In response to the CPT's recommendations following the 1990 visit, the Danish authorities drew attention to Article 758 of the Administration of Justice Act⁸. Further, the Ministry of Justice instructions on the rights of detained persons (cf. paragraph 13), stipulate that, as a rule, detained persons shall be given the opportunity personally to inform their relatives or other relevant third parties (e.g. employers) of their situation without undue delay. However, in the interests of the investigation, the police can decide that this be done by a police officer or that notification of custody be delayed or omitted; the duty officer or the person in charge of the investigation has unfettered discretion to delay (or omit) notification of custody (cf. CPT/Inf (97) 4, paragraph 29).

⁸ The part of Article 758 of the Administration of Justice Act cited by the Danish authorities in this context reads as follows: "During the arrest the person is not subject to other restrictions on his liberty than those required by the purpose of the arrest and considerations of order."

15. The delegation which carried out the 2002 visit interviewed a number of persons who alleged that the police had refused to allow them to inform a relative or friend of their situation, and had declined to do so themselves. Discussions with police (including senior) officers suggested that the power to delay notification was used frequently and that it was not subject to review by senior staff or an independent authority. It also emerged that decisions to delay notification of custody and the reasons therefor were not systematically recorded, as required by the Ministry of Justice instructions.

16. **The CPT recommends 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 outset of their detention. Any possibility exceptionally to delay the exercise of this right should be clearly circumscribed in law, made subject to appropriate safeguards (e.g. 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) and strictly limited in time.**

c. access to a lawyer

17. Detained persons have a right of access to a lawyer as from the moment when they are accused ("sigtet") of having committed a criminal offence⁹. Further, in line with the CPT's recommendation (cf. CPT/Inf (97) 4, paragraph 33), the Ministry of Justice instructions on the rights of detained persons stipulate that the police must give detained persons the opportunity to contact a lawyer without undue delay, and that such persons are entitled to have the lawyer present during questioning and to consult with the lawyer in private; the police may temporarily refuse access to a particular lawyer, in which case access must be given to another lawyer without undue delay.

18. However, as had been the case in 1990 and in 1996, the CPT's delegation found that, in most cases, detained persons were only allowed access to a lawyer from the moment when they were first questioned by the police, or when first brought before a judge. Senior police officers with whom the delegation spoke confirmed that a request from a detainee to have access to a lawyer at an earlier stage would not normally be granted.

The CPT is disappointed by this state of affairs and by the apparent lack of impact of the Ministry of Justice instructions on the manner in which police officers handle the right of detained persons to have access to a lawyer. **It recommends that steps be taken to ensure that the right of detained persons to have access to a lawyer is fully effective as from the very outset of custody.**

⁹ Cf. Article 730 of the Administration of Justice Act. The CPT understands that a person would be deemed to be accused of an offence from the very outset of detention in connection with a criminal investigation.

19. Article 1008 of the Administration of Justice Act stipulates that the court may decide that persons bear all or part of the costs involved in criminal proceedings brought against them, having regard to the outcome of their case. The police is required to inform detained persons of their potential liability concerning such costs (cf. Ministerial Order No. 467 of 26 September 1978). The CPT has already expressed misgivings as regards this approach (cf. CPT/Inf (97) 4, paragraph 35).

The CPT has noted in this connection that the Ministry of Justice instructions on the rights of detained persons provide guidance to police officers to the effect that, when informing a person of the potential liability to pay legal costs, they "must not attempt to influence the detainee's evaluation of his need for legal assistance". However, this guidance is not always being followed; certain police officers interviewed by the delegation stated that they made clear to detained persons that in asking for legal assistance they would only be throwing their money away. The CPT finds this unacceptable. **It recommends that police officers be firmly reminded that they should not seek to dissuade detained persons from exercising their right of access to a lawyer. Further, the requirement that the police inform detained persons of their potential liability as regards costs should extend to the fact that the court may decide to limit that liability.**

d. access to a doctor

20. The Danish authorities consider that the right of access to a doctor is adequately guaranteed by Article 758 of the Administration of Justice Act (cf. note 8 to paragraph 14 and CPT/Inf (96) 14, R.27). Further, the Ministry of Justice instructions on the rights of detained persons provide for access to a doctor of the detained person's own choice to the extent practicable. The police may refuse access to a specific doctor if such a contact could obstruct the investigation, but access to another doctor must then be arranged without delay.

The information gathered during the 2002 visit confirmed that access to a doctor for persons in police custody was guaranteed and the CPT's delegation heard no complaints concerning access to a doctor of a detained person's own choice. Nevertheless, the CPT has misgivings about the power given to the police to refuse access to a particular doctor. **The CPT considers that detained persons should have the right in all cases to be examined by a doctor of their own choice; if it were thought that such a contact could obstruct the investigation, the examination could always take place in the presence of a state-appointed doctor.**

21. It might be added that doctors were being asked by the police to provide a report on the state of health of detained persons, in fact amounting to an authorisation for custody. Other information of a medical nature (e.g. reports on the examination of detained persons or relating to involuntary placement in a psychiatric institution) was kept in police stations and could be freely consulted by non-medical staff. This is not in conformity with the requirements of confidentiality of medical data and calls into question the patient-doctor relationship. **The CPT recommends that steps be taken to ensure that such requirements are fully respected in practice.**

e. information on rights

22. In accordance with the recommendation of the CPT (cf. CPT/Inf (97) 4, paragraph 41), the Ministry of Justice instructions on the rights of detained persons require that the police inform such persons of their rights in a language which they understand. As already indicated, an information leaflet ("Guidelines for persons under arrest") has been drawn up; it was available in a wide range of languages in all of the police establishments visited. The above-mentioned instructions also indicate that the provision of such information should be recorded.

23. However, many of the persons interviewed by the delegation who were, or had previously been, detained by the police stated that they had not been clearly informed of their rights and, more particularly, that they had not received the above-mentioned written "guidelines". It might be added that very few of the detention records examined by the delegation indicated that the persons concerned had been informed of their rights.

The CPT recommends that steps be taken to ensure that detained persons are systematically informed of their rights and provided with a copy of the leaflet setting them out. Detained persons should be asked to certify with their signature that they have been informed of their rights and, if necessary, the absence of a signature in a given case should be explained.

f. complaints and inspection procedures

24. The existence of an independent mechanism to examine complaints against the police is another important safeguard for detained persons. In its 1996 visit report, the CPT described the system for the investigation of complaints about the conduct of police officers; such investigations are entrusted to the Regional Public Prosecutors (cf. CPT/Inf (97) 4, paragraph 44). The information gathered both before and during the 2002 visit suggests that this mechanism is functioning independently and that it enjoys public confidence.

25. The CPT also considers that 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 of persons held by the police and, more particularly, of ensuring satisfactory conditions of detention (cf. CPT/Inf (97) 4, paragraph 45). To be fully effective, the visits by such an authority should be both regular and unannounced, and the authority concerned should be empowered to discuss in private with detained persons.

In their response to the 1996 visit report, the Danish authorities indicated that the Ombudsman is empowered to carry out visits to places falling within his mandate (cf. CPT/Inf (97) 14, I.7). While welcoming this possibility, the CPT considers that it does not meet the objective outlined above; given the very wide scope of the Ombudsman's mandate and the resources at his disposal, it is unrealistic to expect the Ombudsman to carry out the regular monitoring of police stations advocated by the CPT. **The CPT invites the Danish authorities to establish a system of regular visits to police establishments by an independent authority.**

g. immigration detainees

26. The information gathered during the 2002 visit suggests that certain of the safeguards discussed in paragraphs 14 to 23 operated in a satisfactory manner as regards immigration detainees (e.g. notification of custody, including in appropriate cases to the relevant consulate, and access to a doctor), as advocated by the CPT. Further, immigration detainees were promptly informed of their rights, in a language which they could understand.

As regards more particularly the right of access to a lawyer, the CPT has noted that a person detained under the Aliens Act should be assigned a lawyer when first brought before the court¹⁰. The CPT's delegation received several complaints from immigration detainees that they had not been placed in a position to consult with a lawyer from the outset of custody. **The CPT recommends that immigration detainees be guaranteed a right of access to a lawyer as from the very outset of their custody.**

h. training

27. The CPT attaches great importance to the provision of adequate training for police officers. It considers that particular attention should be devoted to training in the art of handling, and more especially of speaking to, persons in police custody, i.e. interpersonal communication skills. This is of particular relevance for police officers who are required to deal with immigration detainees (cf. also in this connection paragraph 68).

The Committee is grateful for the information already provided on police training generally. **It would like to be informed of any training provided specifically for police officers required to deal with immigration detainees.**

¹⁰ Cf. Article 37 of the Aliens Act.

B. Prisons

1. Preliminary remarks

28. In the course of the 2002 visit, the CPT visited for the first time Elsinore Local Jail and Vridsløselille Prison, and carried out follow-up visits to Horsens Prison¹¹ and to Sandholm Foreigners Detention Centre¹².

29. Since the CPT's previous visit in 1996, there have been significant legal changes. On 1 July 2000, the provisions in the Administration of Justice Act on remand detention were amended, in particular as regards solitary confinement (isolation) by court order and, on 1 July 2001, a new Law on the Enforcement of Sentences entered into force. The latter text, together with the relevant secondary legislation, regulate in detail a wide range of issues, notably the information to be provided to prisoners, individual custody plans, disciplinary procedures and complaints systems. Reference will be made to these provisions in the relevant parts of this report.

2. Ill-treatment

30. The delegation heard very few allegations of ill-treatment of prisoners by staff in the four prison establishments visited or in other prisons in Denmark. Moreover, many prisoners, especially at Vridsløselille, spoke positively of the way in which they were being treated by prison staff.

However, the delegation noted that allegations had been made of ill-treatment of a prisoner at Horsens Prison by staff and that the matter was being investigated by the police. **The CPT would like to be informed of the outcome of this case.**

Further, at Sandholm Foreigners Detention Centre, some inmates complained that they had on occasion been subject to taunting by custodial staff. **Staff at Sandholm should be reminded that they must always treat the immigration detainees in their custody with respect.**

31. The CPT's mandate is not limited to ill-treatment of persons deprived of their liberty which is inflicted or authorised by prison staff. The Committee is also concerned when it discovers a prison culture which is conducive to inter-prisoner intimidation or violence.

¹¹ A decision has been taken to replace Horsens Prison with a new establishment by 2006; this will be the first new prison built in Denmark since 1976. Horsens Prison was first visited by the CPT in 1996.

¹² Sandholm is a Prison and Probation Service dedicated immigration detention establishment. It was first visited by the CPT in 1990.

Following its 1996 visit, the CPT made a number of observations in this regard, and invited the Danish authorities to devise a national strategy to address the problem of inter-prisoner violence (cf. CPT/Inf (97) 4, paragraphs 51 to 53). The information gathered in 2002 suggests that there is still room for progress, in particular as regards disruptive and violent prisoners; this subject will be dealt with in the following paragraphs.

3. Inter-prisoner violence and intimidation

32. Danish prisons accommodate a significant number of inmates serving long sentences who are members or supporters of prominent biker gangs; it would appear that, for a number of years, their conduct has contributed to a climate of inter-prisoner intimidation, exploitation and violence. The Danish authorities have openly admitted the ensuing difficulties (cf. CPT/Inf (97) 14, R.11).

33. One of the concrete measures adopted by the authorities to address this phenomenon has been to create special units with a total capacity of about 60 places for inmates classified as "negatively strong". The special units offer better material conditions of detention than ordinary units, a rich regime (work opportunities and education, including outside the prison premises) and an increased staff-prisoner ratio.

Nevertheless, it remains the case that only a small number of inmates are accommodated in each unit and that these prisoners are subject to a higher degree of supervision and enhanced security. Inmates classified as negatively strong complained to the delegation about the restrictive nature of this situation and their perceived segregation.

In this connection, it should be noted that there is no regular review of a prisoner's classification as negatively strong, although prisoners may request a review by the Prison and Probation Service. **The CPT recommends that a decision to classify a prisoner as negatively strong be reviewed at regular intervals (e.g. every three months). Further, it would like to be informed of the exact criteria for classifying a prisoner as negatively strong.**

34. Both the authorities at central level and the management and staff in the establishments visited expressed satisfaction with what they described as the calming effect of relocating the negatively strong prisoners in the new special units.

Another tool used by the prison authorities has been to offer voluntary isolation to prisoners who feel at risk of assault or intimidation. Regrettably, it could be argued that prisoners who seek protection receive isolation. In contrast to their potential aggressors, these inmates are offered material conditions and a regime which are far less favourable, e.g. reduced association/out of cell time (some four hours per day) and diminished work possibilities.

35. The CPT has noted that the number of inmates seeking voluntary isolation for their own protection has decreased considerably; nevertheless, many prisoners in Horsens and Vridsløselille complained that they continued to feel threatened. Indeed, it would appear that the removal from general detention of negatively strong prisoners has left a power/authority gap which is being filled by other prisoners, rather than prison staff.

The fact that some prisoners are still reduced to seeking protection in the form of voluntary isolation would indicate that the Danish authorities should intensify their efforts to provide to vulnerable prisoners a secure environment in which they can participate fully in the normal regime. **The CPT therefore recommends that further steps be taken to remedy the predicament of vulnerable prisoners.**

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

36. The issue of solitary confinement (isolation) of remand prisoners by court order in the interests of the investigation has featured prominently in the ongoing dialogue between the CPT and the Danish authorities. The Committee has stressed that all forms of solitary confinement without appropriate mental or physical stimulation are likely in the long term to have damaging effects, resulting in deterioration of mental faculties and social abilities (cf. CPT/Inf (97) 4, paragraph 54).

37. The CPT is pleased to note that the legal provisions on placement in solitary confinement by court order which entered into force in July 2000 (cf. paragraph 29) meet many of the Committee's requirements on this subject. In particular, a court ruling to the effect that a remand prisoner be segregated must be reasoned. The initial period of solitary confinement may not exceed two weeks but can be extended for successive periods of four weeks; only in exceptional cases can solitary confinement last more than three months.¹³

Moreover, the overall use of solitary confinement by court order has consistently decreased in recent years; it has halved since the entry into force of the above-mentioned provisions (from 11.3% in 1999 to 5.1% in 2001). The average duration of such measures has apparently also diminished and very rarely exceeds three months.

The CPT welcomes these developments. Nevertheless, **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** (cf. CPT/Inf (97) 4, paragraph 59).

¹³ Cf. Articles 770c and 770d of the Administration of Justice Act.

38. It remains the case that prisoners subject to court-ordered solitary confinement are locked in their cells for 23 hours per day and that out of cell time (outdoor exercise) involves very little human contact. As had been the case during previous visits, the CPT's delegation received many complaints about the short and long term negative effects of isolation on the mental health of the prisoner concerned. It should be recalled, in this context, that after the 1996 visit, the CPT recommended that the Danish authorities pursue their efforts to provide the remand prisoners concerned with access to purposeful activities and appropriate human contact (cf. CPT/Inf (97) 4, paragraph 61).

The CPT recommends that, in compliance with Article 776 of the Administration of Justice Act, rules be adopted and implemented without delay to ensure that prisoners held in isolation have increased staff contact and access to visits, individual work and teaching, and are offered regular and longer conversations with chaplains, doctors, psychologists and other persons.

39. Despite previous recommendations by the CPT, at the time of the 2002 visit, the imposition of restrictions (supervised weekly visits limited to 30 minutes, withholding or monitoring of correspondence, prohibition of telephone calls) continued to lie within the sole discretion of the police, who had received no instructions on the circumstances under which such restrictions can be applied. Further, the courts do not consider separately the need for the police to impose restrictions though, as regards some matters, the decisions taken by the police can be reviewed by the courts on appeal.¹⁴ These restrictions, which were applied to the vast majority of remand prisoners, were particularly resented by prisoners in solitary confinement.

It might be added that many prisoners perceived solitary confinement and restrictions on contacts with the outside world as a means of pressure to make them confess; some prisoners alleged that the police had plainly stated that those measures would be eased or lifted if they cooperated. It would appear that it was not uncommon for confessions to be immediately followed by the discontinuation of such measures.

To sum up, in the absence of appropriate procedural safeguards, at present there is still no guarantee that a proper balance is being struck between the legitimate requirements of the criminal investigation and the imposition of restrictions. Consequently, the CPT cannot agree with the Danish authorities' view that the existing legal provisions are adequate (cf. CPT/Inf (97) 14, R.17). **The CPT calls upon the authorities to implement, without further delay, its recommendations on this subject, 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; and 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 (cf. CPT/Inf (91) 12, paragraph 29 and CPT/Inf (97) 4, paragraph 60).**

¹⁴ Cf. Articles 771, 772 and 773 of the Administration of Justice Act.

5. Conditions of detention

a. material conditions

40. **Elsinore Local Jail** was brought into service in 1992 and has an official capacity of 69. At the time of the visit, it was holding 67 prisoners (62 male and 5 female; 35 were on remand).

41. The general characteristics of the 150 year old **Horsens Prison** have been described in the report on the 1996 visit. At the time of the 2002 visit, it had an official capacity of 189, including a remand section with 22 places, and was holding 184 prisoners (180 male and 4 female; 23 inmates were on remand).

42. The main building at **Vridsløselille Prison** also dates from the mid-19th century. It has an official capacity of 224, including 30 places for remand prisoners. At the time of the visit, it was holding 218 male inmates (including 22 remand prisoners).

43. In all the above-mentioned prisons, inmates were accommodated one to a cell, measuring 6 to 7 m² or, in Elsinore, occasionally two to cells measuring 14 m². The cells were adequately lit and ventilated, and fitted with a bed, table, chair, cupboard/shelves; many prisoners had a television, a CD player and/or similar equipment at their disposal. At Elsinore, the cells had a sanitary annexe, including wash basin, lavatory and shower. At Vridsløselille, cells were equipped only with a wash basin and at Horsens, there was no in-cell sanitation; nonetheless, the delegation heard no complaints in these establishments about access to the lavatory, including at night. Communal areas (association rooms, a kitchen for prisoners to prepare their own meals and laundry facility) were very good, as were visiting facilities, in particular at Vridsløselille.

To sum up, material conditions were of a high standard at Elsinore Local Jail and were acceptable at Horsens and Vridsløselille Prisons. The CPT is in particular pleased that the disciplinary unit at Horsens, which was criticised in the report on the CPT's 1996 visit (cf. CPT/Inf (97) 4, paragraph 85), had been fully renovated. It notes, however, that the fabric of the main building did not permit further improvement of the conditions at Horsens. The CPT welcomes the planned construction of a new prison to replace the existing establishment by 2006 and would like to receive an update on progress in this respect.

At Vridsløselille, the prison's buildings in general were in a poor state of repair; the cells in the high security unit (A.1) and in the reception unit (D.1) were particularly dilapidated. **The CPT recommends that the existing renovation programme be implemented without delay.**

44. As already indicated, the **Sandholm Foreigners Detention Centre** is a Prison and Probation Service establishment. It is located 25 kilometres North of Copenhagen, on the premises of a former military barracks which also house the Sandholm Camp for Asylum Seekers. The Detention Centre has a capacity of 150; at the time of the visit, it was holding 101 immigration detainees, of whom 12 were women.

Conditions of detention at Sandholm were on the whole acceptable. Immigration detainees were accommodated two or three, and on occasion four, to an 18 m² dormitory. The dormitories were well lit and ventilated and furnished with beds, a table, chairs and shelves; however, they were rather austere, and the reception unit (18 East) was particularly run down. The communal areas (corridor, leisure room), to which inmates had access during the day, were unfurnished and devoid of decoration. Windows were covered with grilles and barbed wire. In the CPT's opinion, a prison is by definition not a suitable place in which to detain someone who is neither convicted nor suspected of a criminal offence. **The Committee recommends that efforts be made to make the environment at Sandholm more appealing.**

Further, **the CPT's delegation heard some complaints that food was served cold and did not take account of the immigration detainees' dietary habits.**

45. The CPT has noted that Danish prison establishments are not required to detain separately male and female prisoners, unless an inmate so requests¹⁵. However, at **Elsinore, Horsens and Sandholm**, some female detainees were being held against their wishes in cells or dormitories situated within the men's accommodation areas. Further, separate sanitary or shower facilities were not always provided for them.

In the CPT's opinion, in principle, women deprived of their liberty should be accommodated separately from men. That said, the Committee does not object to the approach followed in Denmark, on condition that the prisoners involved unequivocally agree to participate and are adequately supervised. **The Committee recommends that the authorities ensure that these conditions are met in all establishments.**

b. regime

46. The programmes of activities offered to inmates in the prisons visited varied considerably depending on the category of prisoner (sentenced prisoners: in full association, in voluntary or involuntary isolation; remand prisoners: with no restrictions, subject to letter and visit monitoring, under solitary confinement by court order).

47. As had been observed during previous visits, a considerable number of sentenced prisoners in full association spent a reasonable part of the day engaged in work (e.g. furniture making and textile production) or education, in well-appointed workshops and school facilities. A range of leisure activities (music, computer facilities, sports) was also available to such inmates¹⁶.

¹⁵ Cf. Article 33 of the Law on the Enforcement of Sentences.

¹⁶ As regards the situation of sentenced prisoners classified as negatively strong, cf. paragraph 33.

Sentenced prisoners excluded from association¹⁷ maintain their right (and duty)¹⁸ to work; however, the work offered to them was of a monotonous character (assembly work and packing), and was not always available in sufficient quantity. Further, the CPT has learned with particular concern of the situation of two prisoners excluded from association, held in **Horsens** and **Vridsløselille Prisons**, respectively; each had in fact spent more than three years in isolation, having very little human contact. The CPT welcomes the efforts being made by the Danish authorities to improve the situation of those two inmates, in particular as regards access to association under appropriate conditions. Following the visit, the CPT was informed that the Prison and Probation Service had moved the prisoner at Horsens to a new six persons unit at Nyborg Prison. **It would like to be informed of any development in respect of the prisoner at Vridsløselille.**

48. Remand prisoners¹⁹ in general had one hour and thirty minutes of out of cell/association time and one hour of outdoor exercise every day; additional evening association was permitted in the cell with one other inmate (for a few hours) or in the corridor area with three other inmates (for thirty minutes every other day). Remand prisoners could use the gym three times per week and in-cell work (e.g. folding paper tissues and cloths) was available for some inmates. In brief, prisoners remained locked in their cells for up to 21 hours every day; their main occupation was to watch television, listen to the radio and read. Such a regime can only be described as very restrictive.

The CPT has serious misgivings about this state of affairs. Of course, the Committee recognises that the provision of organised activities in the remand section of a prison, where there is likely to be a high turnover of inmates, poses particular challenges. It will not be possible to set up individualised programmes for such prisoners; however, it is not acceptable to leave prisoners to their own devices for up to several months at a time. The aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association.

The CPT recommends that the authorities take steps to develop adequate programmes of activities for all prisoners, including those on remand, having regard to the above remarks.

49. The CPT welcomes the gradual implementation of the legal requirement that an individual custody plan be drawn up for each sentenced prisoner.²⁰ Custody plans are particularly important as regards inmates serving long sentences (including life imprisonment). **The CPT would like to receive further information on progress being made in this connection.**

¹⁷ Cf. Article 63 of the Law on the Enforcement of Sentences, which provides for the exclusion from association (i.e. isolation) of prisoners because of risk of escape, criminal activity or violent behaviour. Their situation is reviewed on a weekly basis.

¹⁸ Cf. Article 38 of the Law on the Enforcement of Sentences.

¹⁹ The situation of remand prisoners under solitary confinement by court order has been examined in paragraph 38.

²⁰ Cf. Article 31 of the Law on the Enforcement of Sentences.

50. Following its previous visit, the CPT criticised the exercise yard for remand prisoners at Horsens Prison which was found to be too small. Arrangements were subsequently made for those inmates to have access once per week to the far larger exercise area used by sentenced prisoners. While welcoming this modest development, **the CPT recommends that steps be taken to ensure that remand prisoners at Horsens have access on a daily basis to outdoor exercise facilities which are large enough to permit them to exert themselves physically.**

The exercise yard for prisoners in isolation by court order in **Vridsløselille** was small and bleak. The CPT welcomes the management's decision to dismantle the yard in the light of the delegations findings, and to make alternative arrangements for this category of inmates.

51. At **Sandholm Foreigners Detention Centre**, immigration detainees were offered association time in leisure rooms, with the exception of those in wing 18 East who met together in the corridor. However, there were few other purposeful activities. The school appeared underused and immigration detainees claimed that they were not allowed to use the impressive gym, ostensibly for security reasons; work, available only to some detainees, was monotonous in nature (basic assembly and packing). **The CPT recommends that the regime offered at Sandholm be improved; in particular, full use should be made of the school and the gym, and work, preferably with vocational value, should be provided in sufficient quantity. Immigration detainees in wing 18 East should be offered access to a leisure room.**

It might be added that work was under way to enhance security at Sandholm. The delegation was informed that, as a result, detainees were not being guaranteed one hour of outdoor exercise every day. **The CPT trusts that this state of affairs has now been remedied.**

52. A number of immigration detainees at Sandholm complained that access to the telephone was insufficient; in particular, they claimed that not all those who wished to use the telephone were able to do so within the time allocated (one hour per day, with a maximum of 5 minutes per inmate). All calls had to be made within the above-mentioned period, including calls to relatives and friends in different time zones, as well as to detainees' lawyers.

In order to ensure that the immigration detainees are able to maintain good contact with the outside world, **efforts should be made to offer immigration detainees better telephone access.**

6. Health-care services

a. introduction

53. A prison health care service should be able to provide nursing care and medical and psychiatric treatment, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community.

The delegation found that, with the exception of psychiatric care, these objectives were on the whole being met at Vridsløselille and, in particular, at Horsens. Medical and para-medical staffing levels, as well as resources in terms of premises, facilities and equipment in those establishments were fully acceptable. However, this was not the case at Sandholm²¹.

b. medical examination on admission, and confidentiality

54. It is impossible to overemphasise the importance of the medical screening of prisoners upon admission (cf. CPT/Inf (91) 12, paragraph 48 and CPT/Inf (97) 4, paragraphs 103 to 108), especially in establishments that constitute points of entry into the prison system. 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.

At the time of the visit, newly-arrived inmates were medically examined systematically at Horsens Prison and, following the visit, such screening was introduced at Vridsløselille. However, the situation was not satisfactory at Sandholm, where medical examinations were only carried out at the request of the immigration detainee concerned.

The CPT recommends that the Danish authorities take steps to ensure that all newly arrived inmates are interviewed and medically examined by a doctor as soon as possible after their admission. Such medical screening can also be carried out by a qualified nurse reporting to a doctor.

55. In the report on its previous visit, the CPT also stressed the importance of medical confidentiality, which should be respected in prison in the same way as in the outside community (cf. CPT/Inf (97) 4, paragraphs 109 to 111).

This requirement was not being observed at Vridsløselille Prison, where psychologist and psychiatrist reports concerning ongoing care were kept in prisoners' general administrative files, accessible to non-medical staff. **The CPT recommends that the authorities ensure that the confidentiality of medical data is fully respected in prison establishments.**

²¹ The delegation did not examine the health care services for prisoners at Elsinore.

c. somatic care

56. As already indicated, staff resources were adequate at Horsens and Vridsløselille. The provision of somatic care to prisoners in those establishments does not call for particular comments from the CPT.

57. At Sandholm, the medical team consisted of a general practitioner attending for 12 hours per week, one full-time nurse (employed at the detention centre since the previous month) and two part-time nurses (30 and 12 hours, respectively). Unlike other prison health care services, the medical team was not supplemented by specialists. Given not only the capacity of the establishment but also the profile of the persons detained there, such a team is not sufficient. The delegation found that fewer than 20% of all immigration detainees were medically examined at any time during their detention at Sandholm.

In this context, the delegation discovered numerous and significant delays in responding to inmates' requests for medical attention, as well as serious failings as regards follow-up of medical problems and respect for the principle of equivalence of care.

By way of example, a prisoner told the delegation that, upon his arrival at Sandholm, he had immediately asked to be seen by a doctor because he was suffering from thoracic pains, dyspnoea and expectoration. He was only examined by a nurse 17 days - and by a doctor 20 days - after his arrival. A chest X-ray, carried out one week later, revealed a pleural effusion requiring an immediate hospitalisation lasting 10 days; a tentative diagnosis of tuberculosis was not confirmed. The person concerned was only seen again by a nurse at Sandholm three weeks after his return from hospital, when a further X-ray revealed a new effusion. In the CPT's opinion, this situation is unacceptable, for both inmates and staff.

The CPT recommends that the resources and functioning of the health care service at Sandholm be reviewed without delay, in order to ensure that all inmates are offered the level of care which they are entitled to expect. In this respect, measures should also be taken to prevent the spread of transmissible diseases.

d. psychiatric care

58. In comparison with the general population, there is a high incidence of psychiatric symptoms among prisoners and every prison health care service must make adequate provision for this group of patients. The delegation which carried out the 2002 visit found shortcomings in this area in the three prison health-care services examined, due to a patent shortage of psychiatrists or psychologists.

At Vridsløselille, the psychiatrist and the psychologist each attended for eight hours per week. Prisoners identified as requiring psychotherapy were obliged to wait about one month to be seen. At Horsens, the psychiatrist attended twice a week; there had been no psychologist since the retirement of the holder of that post eight years earlier.

At Sandholm, there were no on-site psychiatric or psychological consultations. Where necessary, and provided transport was available, patients were referred to a psychiatrist in Vestre Prison 25 km away. Such a situation is of all the more concern given that the delegation perceived a strained psychological atmosphere among inmates, who suffered from anxiety as a consequence of uncertainties about their future.

The CPT recommends that the psychological services in all of the establishments visited and the psychiatric services at Sandholm be reviewed, in the light of the foregoing remarks.

- e. health policy regarding drug abuse

59. The presence in prisons of many inmates with drug-related problems gives rise to particular difficulties for prison authorities, including as regards the choice of appropriate medical and psychological services to be offered. The CPT considers that such services should be varied, combining medical detoxification, psychological support, life skills, rehabilitation and substitution programmes for opiate-dependent patients who cannot discontinue taking drugs. Further they should be associated with a prevention policy.

The delegation welcomes the efforts already made by the Danish authorities in this area, particularly at Vridsløselille where 30 patients were being treated in a special unit (Kongens Ø) and another 51 patients were receiving substitution treatment. Further, preventive measures had been introduced, such as making available condoms to prisoners and disinfectant for needles.

The delegation was informed that Horsens Prison included a newly established 16-place drug-free unit, and several patients were receiving substitution treatment. Numerous information leaflets on AIDS and hepatitis B and C were also available to prisoners. However, there was still no treatment unit.

The CPT would encourage the Danish authorities to pursue their efforts in this field, in particular by ensuring that appropriate health care services and life skills rehabilitation for inmates with drug problems are available in all prison establishments.

7. Other issues

a. information to prisoners

60. According to the law²², 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.

61. Information leaflets for inmates were available in all of the establishments visited. At Vridsløselille Prison, a revised version of the leaflet was being prepared. However, with the exception of Elsinore, many of the inmates interviewed claimed that, in fact, they had received no information upon admission. **The CPT recommends that steps be taken to ensure that the above-mentioned information leaflets are given to prisoners on their arrival.**

62. As for immigration detainees, many complained that they had not received information on the regime in force at Sandholm and on their rights and duties. The alleged absence of information in appropriate languages about the procedures applied to the immigration detainees was also a source of distress and uncertainty. **The CPT recommends that immigration detainees be kept duly informed about their situation and the procedures applied to them.**

b. complaints and inspection procedures

63. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level.

In Denmark, inmates may inter alia lodge requests or complaints with the prison's management and can appeal against decisions by the latter to the Minister for Justice (in practice the Prison and Probation Service)²³. However, the CPT's delegation heard some allegations from inmates in Vridsløselille and Horsens that they had not received a reply, or had received late replies, to their complaints. The absence of suitable complaints records or registers in those establishments did not permit the delegation to ascertain the accuracy of these claims. In the light of the above, **the CPT suggests that current arrangements for handling and, in particular, registering complaints, be reviewed.**

²² Cf. Article 31 of the Law on the Enforcement of Sentences.

²³ Cf. Article 111 of the Law on the Enforcement of Sentences.

64. The CPT also attaches great importance to regular visits to all prison establishments by an independent body (for example a visiting committee or a judge) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit all the prison facilities. Such visiting bodies should not limit their contacts to persons who have expressly requested to meet them; they should take the initiative by visiting the prison's detention areas and entering into contact with inmates.

Following the 1996 visit, the CPT noted the amendment of the Law on the Parliamentary Ombudsman in order to allow the Ombudsman's Office to carry out periodic inspections of prison establishments and receive and handle prisoners' complaints. The Committee also welcomed the work of the Prison and Probation Service's Internal Inspection set up in 1995, which fulfilled a complementary role to that of the Ombudsman. It had already produced a number of high-quality reports (cf. CPT/Inf (97) 4, paragraphs 127 and 128). However, the CPT was concerned to learn that the latter body had now ceased to operate; **it encourages the Danish authorities to take steps to re-introduce the operation of the Internal Inspection.**

c. prison staff

65. None of the establishments visited were understaffed; however, prison officers in certain of them indicated that there was a relatively high level of absenteeism (ostensibly due to sickness) among custodial staff. In the CPT's experience, such a state of affairs can be an indicator of a more profound malaise, the reasons for which should be identified and tackled. **The CPT would like to receive information on measures taken to address this problem, in the light of the results of the relevant survey carried out in 2001 by the Prison and Probation Service.**

66. The CPT's delegation found that staff-inmate relations in all the prison establishments visited were reasonably relaxed, albeit somewhat distant. At Horsens, prison officers' approach to their work appeared to be focused almost exclusively on custodial duties and it was rare, also at Vridsløselille, for staff to venture outside their office located within the units. The CPT therefore welcomes Vridsløselille Prison's objective for 2002 that staff become more closely acquainted with inmates during day-to-day contacts; **this should be considered an important objective in all prisons.**

67. Prison officers receive 12 months of induction training (theoretical education combined with training in prisons and local jails), and some officers subsequently receive in-service training in subjects such as self-defence, first aid and computer skills. In this context, **the CPT wishes to stress that considerable emphasis should be placed on the acquisition and development of interpersonal communication skills. Further, prison officers' access to ongoing training should be a priority.**

68. The CPT attaches particular importance to supervisory staff in detention centres for foreigners, such as Sandholm, being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of inter-personal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action. In light of the observations made during the visit, it appeared that staff at Sandholm did not at present fully meet all these requirements.

The CPT recommends that further attention be devoted to the training needs of staff working at Sandholm, taking into account the above remarks.

C. Psychiatric establishments

1. Preliminary remarks

69. In Denmark, involuntary hospitalisation may be decided in order to ensure the effectiveness of treatment or if the person concerned is considered to represent a danger to him/herself or others²⁴. The decision concerning involuntary admission (hereinafter referred to as "civil" admission or placement) is made by the head doctor of the psychiatric department involved, based on a medical certificate drawn up by a doctor independent of the establishment. Further, the head doctor may decide that a voluntary stay in hospital be transformed into involuntary retention. The head doctor also decides whether involuntary placement should continue, three, ten, twenty and thirty days after the beginning of the deprivation of liberty, and subsequently every four weeks.

Involuntary admission may also be ordered by a court²⁵ in order to provide care to persons declared not responsible or of diminished responsibility, or to carry out a psychiatric assessment in the context of criminal proceedings, or to provide treatment to prisoners. The patient in question may be admitted to a forensic psychiatric unit or to a civil psychiatric department.

70. The delegation visited three psychiatric establishments: Glostrup Hospital Psychiatric and Forensic Psychiatric Departments, Haderslev Hospital Psychiatric Department and the Nykøbing Sjælland Psychiatric Hospital.

71. **Glostrup Hospital Psychiatric and Forensic Psychiatric Departments** form the largest psychiatric establishment in Denmark. It comprises several bungalow-type buildings and has a capacity of 192 beds, including 24 in the forensic psychiatric department. At the time of the visit, the establishment held 49 involuntary patients, 28 of whom were detained in the context of criminal proceedings. Some of these patients occupied beds in the civil psychiatric department.

72. **Haderslev Hospital Psychiatric Department** is housed in a modern two-storey building with 32 beds which may accommodate patients hospitalised without their consent. At the time of the visit there were 7 involuntary patients, one of whom was detained in the context of criminal proceedings.

73. **Nykøbing Sjælland Psychiatric Hospital** has a civil psychiatric department, including a 10-bed closed unit, and a forensic psychiatric department comprising a 10-bed forensic unit ("Retspsykiatrisk afsnit") and a 30-bed secure unit ("Sikringsafdelingen") - the only one of its kind in Denmark - for patients considered dangerous, whether placed in a civil or criminal context. At the time of the visit, three involuntary patients were accommodated in the closed unit of the civil psychiatric department, ten in the forensic placement unit and 29 (25 men and 4 women, 20 of whom under a civil placement) in the secure unit.

²⁴ Cf. Act on the deprivation of liberty and use of force in psychiatry, of 24 May 1989 (as amended).

²⁵ Cf. Articles 68 or 69 of the Criminal Code and Articles 765, 777 or 809 of the Administration of Justice Act.

2. Ill-treatment

74. The CPT's delegation received no allegations of ill-treatment of patients by staff in the three establishments visited, and gathered no other evidence of such treatment. Indeed, it found a relaxed atmosphere and a staff-patient relationship based on trust.

75. Nevertheless, the CPT is concerned about the frequent recourse to physical immobilisation of patients (fixation), prescribed to prevent them from placing themselves or others at risk, harassing or seriously verbally abusing other patients or causing significant material damage²⁶. Patients are immobilised by attaching them to their beds (or a bed in a specially fitted - "zero stimulation" - room), by means of an abdominal belt and straps to the ankles and wrists. A staff member is continuously within sight of or sitting next to the patient.

In practice, according to the delegation's findings, an immobilised patient remained attached in this manner throughout the day, including during meal times. Patients were generally released to use the lavatory but could be required to urinate into a bed bottle while remaining attached.

Such immobilisation could last for several days, or even one week or more. On occasion, long periods of restraint were interrupted by brief periods without restraints. For example, at Glostrup the delegation met a patient who had been released from fixation that very day following ten days of continuous immobilisation. In Haderslev, it found a "voluntary" patient who had been restrained for 17 days, albeit with a 24 hour interruption during this period. At Nykøbing, an immobilised patient told the delegation that he had been in that situation almost continuously for four months.

The CPT recognises that, as a last resort, it may sometimes be necessary to restrain a patient physically. Nevertheless, if, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity. Applying instruments of physical restraint to psychiatric patients for days cannot have any medical justification and amounts, in the CPT's view, to ill-treatment. Consequently, **the CPT recommends that the practice of immobilising patients be reviewed as a matter of urgency** (cf. also paragraph 98).

76. It should also be noted that sometimes patients remained immobilised within sight of other patients. This was the case for example in Haderslev, where the patient referred to above could be seen by anyone walking down the corridor. **The CPT recommends that immobilisation of patients never take place in sight of other patients.**

²⁶ Cf. Articles 14 to 18 of the Act of 24 May 1989.

3. Staff resources

77. Staff resources in a psychiatric establishment should be adequate in terms of numbers, categories of staff (psychiatrists, general practitioners, nurses, psychologists, occupational therapists, social workers, etc.), and experience and training. Deficiencies in staff resources will often seriously undermine efforts to offer activities or provide a high standard of care.

78. In the three establishments visited, the total number of care staff in the in-patient units appeared to be generally satisfactory. However, there was a low percentage of qualified nurses. At Nykøbing Sjælland Psychiatric Hospital, for example, they represented less than 10% of the total complement of care staff.

79. Of even greater concern was the inadequate number of psychiatrists in all of the establishments visited. As a result, the psychotherapeutic care of patients was poorly developed, particularly given that in certain establishments the number of psychologists was also insufficient.

At **Glostrup**, one of the head doctors stated that, in the civil psychiatric department, there were not enough psychiatrists to ensure satisfactory treatment. The CPT welcomes the planned significant increase in the number of doctors, which should bring it from the equivalent of 30.8 full-time doctors in December 2001 to 42.3 in the coming months. As for the forensic psychiatric department, there were only two psychiatrists at the time of the visit, and one post was vacant.

At **Haderslev**, each 16-bed hospital unit had a head psychiatrist and two further doctors. However, in practice, their commitments to the psychiatric on-call service left only 12.5 hours per week for each doctor to spend not only on unit patients but also to perform all of the other duties entrusted to them, including external consultations.

In the **Nykøbing Sjælland Forensic Psychiatric Department**, which could accommodate some forty seriously disturbed patients, there were only 2.5 psychiatrists; an additional psychiatrist was scheduled to join the department in August 2002. The CPT is conscious of the recruitment difficulties due to the hospital's isolated location and the challenge of finding staff willing to work in forensic psychiatric departments. Nevertheless, the Committee considers that 2.5 psychiatrist posts are manifestly inadequate given the profile and characteristics of the patients. This shortage of psychiatrists was aggravated by a clear lack of psychological services, with only one of the two existing posts being filled.

80. The delegation was also concerned about the number of staff providing occupational therapy activities in the Glostrup Psychiatric Department: the equivalent of 11.9 full-time staff members in December 2001 for nearly 200 in-patients, not to mention out-patients. This complement, already barely adequate, was expected to be halved in the coming months.

81. **The CPT recommends that the Danish authorities review the staffing levels in the psychiatric units visited, in the light of the above remarks. More particularly, it recommends that, as soon as possible:**

- **the number of psychiatrists be increased in the Nykøbing Sjælland forensic psychiatric department, and in the in-patient hospital units at Haderslev;**
- **the vacant psychiatrist post at Glostrup forensic psychiatric department be filled;**
- **the vacant psychologist post at Nykøbing Sjælland be filled.**

The Committee also invites the Danish authorities to review the decision to reduce the staff in charge of the occupational therapy workshops in the Glostrup Psychiatric Department.

4. Living conditions of patients

82. On the whole, material conditions offered to patients in the three establishments visited were of a high standard; this was particularly true of the psychiatric department at Haderslev where, in addition to a high standard of accommodation, the patients also enjoyed a wide range of sports facilities as well as pleasant association areas for evening time. Most patients were accommodated in individual rooms, and where this was not the case, refurbishment was under way. Care had clearly been taken to personalise rooms and to develop a warm atmosphere.

83. Apart from the secure psychiatric unit in Nykøbing, none of the rooms had call systems. **The CPT recommends the installation of a call system in the rooms of less autonomous patients; in particular, such a system should be introduced in the psychogeriatric units in Glostrup in the course of its impending renovation.**

84. Access of involuntary patients to outdoor exercise facilities varied depending on the architecture of the buildings. At Glostrup, patients had free access to outdoor exercise facilities. However, in one forensic unit, during part of the day, such access could be limited to a sizeable cage-like structure with wire-netting on all four sides and across its roof; **the CPT has misgivings about this arrangement.**

As regards Nykøbing, patients in the secure psychiatric unit had free access to a large exercise yard. However, access to outdoor facilities was very limited for patients in the forensic psychiatric unit, which was located on the first floor of the building.

Further, few of the exercise yards of the three establishments visited had covered areas offering protection from rain or snow.

The CPT recommends that steps be taken to ensure that, unless there are medical reasons to the contrary, all involuntary patients benefit from at least one hour of outdoor exercise every day in satisfactory conditions (i.e. sheltered from inclement weather).

5. Treatment

85. In the three establishments visited, patients received individualised treatment, which often included medication, primarily psychoactive drugs. The delegation found no signs of over-medication. However, it met two patients who had received involuntary ECT treatment for mania. The medical records were detailed, precise and easily readable, and medical confidentiality was respected.

Nevertheless, due to the inadequate number of psychiatrists and, on occasion, psychologists, **the group and individual psychotherapy available in the various hospitals visited was insufficient.**

86. The CPT's delegation paid particular attention to the practice of close or constant supervision or shielding ("skærmning") of patients. It is considered by the doctors as a therapeutic tool and is therefore prescribed by a doctor.

By way of example, at Haderslev, there were four levels of shielding. At level 1 staff should know where the patient is at all times; level 2 involves constant visual monitoring and occasionally searching the patient with his/her agreement; level 3 requires the continuous presence of a nurse close to the patient; and level 4 amounts to strapping the patient to a bed (cf. paragraphs 75, 76 and 98). Shielding may also involve, at any stage, restricting further the movement of a patient to a small part of the unit, in particular by locking the unit's inner door.

The practice of shielding, in particular the locking of a unit's doors, which may be applied to both involuntary and voluntary patients, has not been the subject of specific regulations/guidelines at national level. However, the CPT has noted that a broad consultation process is currently under way in Denmark in respect of this practice; **it would like to be informed of developments in this respect and suggests that national standards be drawn up to govern the practice of shielding** (cf. also, paragraph 99).

87. The CPT is concerned to note that, in the secure unit at Nykøbing, patients were on occasion locked in their rooms during the day, apparently in order to limit their level of stimulation. The opening of a bedroom door at the request of a patient required the presence of 2 staff members or, in certain cases, more. **The CPT would like to receive the comments of the Danish authorities on this subject and, more particularly, on its therapeutic grounds and legal basis.**

88. The delegation was also concerned by the limited occupational therapy activities available in Glostrup Hospital Psychiatric Department. The workshops, for both out-patients and in-patients - including certain forensic psychiatric patients whose hospitalisation could last for years - consisted of two poorly-equipped rooms located in a separate building. At the time of the visit, in the late afternoon, the delegation found about ten patients sitting around chatting idly.

The CPT recommends that the authorities take the necessary steps to enable the Psychiatric Department of Glostrup Hospital to offer patients access to proper occupational therapy workshops (cf. also paragraphs 80 and 81).

6. Safeguards for psychiatric patients

89. On account of their vulnerability, the mentally ill and mentally disabled warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment, whether in a civil or criminal context, as well as the treatment and any use of physical restraint, should always be surrounded by appropriate safeguards.

a. involuntary placement

90. From the outset of civil placements, a patient adviser, independent of the hospital and bound by confidentiality, is appointed to guide and advise patients on their placement, stay and treatment, and assist them in the event of complaints or appeals. Advisers are required to visit patients at least once per week.²⁷

The CPT welcomes this dynamic, continuous safeguard. Nevertheless, it appeared that persons considered (by the local authorities) to be suitable as patient advisers on the basis of their qualifications or prior experience (such as social workers, teachers or members of the clergy) did not receive any specific training for their new function and learned by doing the job. **The CPT invites the Danish authorities to consider providing appropriate initial and ongoing training to patient advisers.**

91. As already indicated, voluntary stay in hospital may be transformed into involuntary retention by the sole decision of the head doctor (cf. paragraph 69). In order to align the safeguards offered in such cases with those of other involuntary patients, **the CPT recommends that such a step require an opinion from a second doctor who is independent of the hospital.**

92. Only certain patients²⁸ admitted in the context of criminal proceedings benefit from the assistance of an independent representative or guardian ("bistandsværge"), whose status, function and obligations are broadly similar to those of a patient adviser, with the notable difference that there are no requirements concerning the minimum frequency of visits²⁹. Such representatives may be persons considered to be qualified by reason of their skills or previous experience, or a relative of the patient (without guarantee, in that case, of skills and/or experience, and presenting a potential conflict of interest).

In the light of the above remarks, **the CPT recommends that the Danish authorities take steps 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.**

²⁷ Cf. Ministry of Health Order 78 of 29 January 1999, on patients' advisers.

²⁸ All patients admitted under Articles 68 or 69 of the Criminal Code and certain patients admitted under Articles 765, 777 or 809 of the Administration of Justice Act.

²⁹ Cf. Ministry of Health Order 77 of 5 December 1999, on "bistandsværger".

93. The CPT has taken note of the possibilities for patients subject to civil placement to lodge complaints or applications to a local county complaints board and to the national complaints board, which permit the review of any decisions affecting them (e.g. as regards conditions of stay and treatment), and also before the courts (e.g. as regards placement/termination of placement). However, the CPT understands that it is not required that the doctor appointed to each board be a qualified psychiatrist; **the Committee would like to receive the comments of the Danish authorities on this question.**

94. The situation was the same for patients placed in the context of criminal proceedings, with the exception that involuntary measures imposed by the courts could only be reviewed by them. Nevertheless, **the CPT would like to receive confirmation that, in all cases, there is a possibility of judicial review of an involuntary placement.**

95. An involuntary placement should cease once it is no longer required by the patient's mental state.

The CPT has already referred to the possibility offered to patients to request the termination of their hospitalisation. The delegation's observations suggest that these procedures function adequately.

In Denmark there is no systematic review of involuntary placements by an independent body. In the CPT's opinion, such reviews would strengthen patients' safeguards. They should be entrusted to an appropriate authority drawing on the expertise of professionals independent of the hospital concerned. **The CPT recommends the introduction of such a review system.**

96. It should be added that, as regards the Nykøbing secure psychiatric unit, decisions to begin and terminate civil placements are made by the Minister for Justice³⁰. Placements must be confirmed by a court, and decisions to refuse to terminate placements may also be appealed before the courts. **The CPT would like to receive information on the procedure applicable to forensic patients' placement in the secure unit.**

b. patients subject to specific measures

97. The CPT welcomes the fact that involuntary placement is not interpreted as automatically authorising involuntary treatment and that the latter is subject to various formal safeguards³¹: recording of the measure irrespective of the nature of the hospitalisation (voluntary or involuntary), and its communication to the management of the establishment and the regional authorities; appointment of a patient adviser (however, cf. paragraph 98); and a right to appeal, with suspensive effect.

³⁰ Cf. Article 40 of the Act of 24 May 1989.

³¹ Cf. Articles 12, 20, 21, 24 and 32 of the Act of 24 May 1989.

98. While the CPT has expressed concern about the frequency with which patients are strapped to a bed and the duration of physical immobilisation (cf. paragraphs 75 and 76), it has noted with satisfaction that these measures are subject to detailed legal regulation³². They are accompanied by a panoply of formal safeguards: recording of the reasons for the measure, the time when it started and ended, the identity of the prescribing doctor and the doctor present when the patient was immobilised; requirement to communicate this information to the management of the establishment and to the regional authorities; and offer to appoint a patient adviser.

Nevertheless, it is to be regretted that advisers are not appointed automatically in cases of immobilisation. In this connection, the delegation found that the offer to appoint an adviser was sometimes deferred until the patient was considered to be capable of replying. This was the case as regards the patient attached in Haderslev (cf. paragraph 75), who had been restrained for 17 days almost without interruption and had had no possibility during that time to challenge the measure and make known her disagreement.

The CPT recommends that the Danish authorities ensure that all patients who are subject to immobilisation benefit from the appointment of a patient adviser as from the outset of that measure.

99. The CPT is concerned that, in certain cases, the practice of close supervision, or shielding (cf. paragraph 86) may amount to de facto involuntary hospitalisation. For example, it appeared that certain voluntary patients hesitated to resist a shielding measure for fear that their situation would be formally transformed to involuntary hospitalisation and, in other cases, instructions had been given to initiate proceedings for involuntary placement if patients were to ask to be discharged.

Consequently, in the same way as for immobilisation, **the CPT recommends that the Danish authorities ensure that all patients who are subject to shielding benefit from the appointment of a patient adviser as from the outset of that measure.**

c. other safeguards

100. The CPT welcomes the existence of a leaflet setting out the rights of patients subject to involuntary placement, and its translation into several languages.

101. Maintaining contact with the outside world is essential, not only for preventing ill-treatment but also from a therapeutic standpoint.

In all the hospitals visited, the delegation found that, other than in cases where restrictions were imposed by the courts for reasons connected with an investigation, patients could receive visits and had access to a telephone. However, in several units of the psychiatric department of Glostrup Hospital, there was only one telephone, located in the nursing staff's meeting room. **Steps should be taken to ensure that patients have access to the telephone under conditions which respect their right to privacy.**

³² Cf. Articles 20 and 21 of the Act of 24 May 1989.

102. Finally, the CPT considers that it is particularly important for psychiatric establishments to be visited on a regular basis by an independent outside monitoring body, such as a judge or a supervisory committee. The CPT therefore welcomes the unannounced visits by the Ombudsman and by the Parliamentary committee set up for that purpose³³.

³³ Cf. Article 71, paragraph 7, of the Constitution of 5 June 1953.

III RECAPITULATION AND CONCLUSIONS

A. Police establishments

103. The CPT's delegation heard no allegations of ill-treatment of persons held in police establishments, and found no other evidence of such treatment. Moreover, the great majority of persons met who were or who had previously been detained by the police indicated that they had been correctly treated by police officers throughout their period in custody.

However, in the light of the information gathered during the visit, the CPT has invited the Danish authorities to remind police officers in an appropriate manner, at regular intervals, that no more force than is strictly necessary should be used when effecting an arrest.

104. On the whole, conditions of detention in the five police establishments visited in 2002 met the criteria employed by the Committee in this respect.

However, two of the holding rooms of the Horsens Criminal Investigation Police were small (2.8 m²), had no access to natural light or ventilation and were wired to equipment that played loud music when the lights were switched on (i.e. whenever detained persons were being held in them). They were claustrophobic and generated an unacceptably intimidating atmosphere. The CPT has recommended that those rooms - and any other similar holding facilities in Denmark - be withdrawn from service.

105. The CPT has welcomed the fact that the Danish authorities have issued instructions to the police and the prosecution service designed to reinforce the rights of detained persons. However, the CPT's delegation found that the formal safeguards against ill-treatment advocated by the Committee were still not wholly effective in practice.

Police officers continued to have a wide discretion to delay notification of the fact of a person's custody to a close relative or another third party. Further, in most cases, detained persons were only allowed access to a lawyer from the moment when they were first questioned by the police or when first brought before a judge; senior police officers confirmed that a request from a detained person to have access to a lawyer at an earlier stage would not normally be granted. There would also appear to be a tendency on the part of certain police officers to inform detained persons of their potential liability to pay legal costs in such a way as to discourage them from requesting legal assistance.

The CPT's findings show the need to give a firmer legal basis to the provisions relating to the rights of persons detained by the police; this would be in the interests of both the prevention of ill-treatment and the protection of the police against false allegations. The Committee has recommended that persons detained by the police have a formally recognised right to inform a third party of their choice of their situation as from the outset of their detention and that any possibility exceptionally to delay the exercise of this right be clearly circumscribed in law and made subject to appropriate safeguards.

Further, steps should be taken to render the right of access to a lawyer, including for immigration detainees, fully effective as from the outset of custody and to ensure that police officers do not seek to dissuade detained persons from exercising this right.

In the light of the information gathered during the visit, the CPT has also recommended that steps be taken to ensure that detained persons are systematically informed of their rights and given the information leaflet setting them out.

B. Prisons

106. Very few allegations were heard of ill-treatment of prisoners by staff in the four prison establishments visited or in other prisons in Denmark. Moreover, many prisoners, especially at Vridsløselille, spoke positively of the way in which they were being treated by prison staff.

However, at Sandholm Foreigners Detention Centre, some inmates complained that they had on occasion been subject to taunting by custodial staff. The CPT has recommended that staff at Sandholm be reminded that they must always treat the immigration detainees in their custody with respect.

107. One of the concrete measures adopted by the authorities to address the phenomenon of inter-prisoner violence and intimidation has been to create special units for inmates classified as "negatively strong". The special units offer better material conditions of detention than ordinary units, and a rich regime. However, only a small number of inmates were accommodated in each unit and prisoners were subject to a higher degree of supervision and enhanced security. The CPT has recommended that a decision to classify a prisoner as negatively strong be reviewed at regular intervals (e.g. every three months).

Another tool used by the prison authorities has been to offer voluntary isolation to prisoners who feel at risk of assault or intimidation. Regrettably, it could be argued that prisoners who seek protection receive isolation. In contrast to their potential aggressors, these inmates are offered material conditions and a regime which are far less favourable e.g. reduced association/out of cell time (some four hours per day) and diminished work possibilities.

Despite the above-mentioned measures, many prisoners in Horsens and Vridsløselille complained that they continued to feel threatened. Indeed, it would appear that the removal from general detention of negatively strong prisoners has left a power/authority gap which is being filled by other prisoners, rather than prison staff. The CPT has recommended that further steps be taken to remedy the predicament of vulnerable prisoners.

108. The CPT has welcomed recently adopted legal provisions on placement in solitary confinement by court order, which meet many of the Committee's requirements on this subject. Further, the overall use of this measure has consistently decreased in recent years. However, it would be desirable to fix a maximum limit for the duration of solitary confinement of remand prisoners by court order. The CPT has also recommended that rules be adopted and implemented without delay to ensure that prisoners held in isolation are offered enhanced human contact and purposeful activities.

109. The use of restrictions (e.g. supervised visits, withholding or monitoring of correspondence, prohibition of telephone calls) vis-à-vis remand prisoners continued to be widespread and to lie within the sole discretion of the police, who had received no instructions on the circumstances under which such restrictions can be applied. In the absence of appropriate procedural safeguards, there is still no guarantee that a proper balance is being struck between the legitimate requirements of the criminal investigation and the imposition of restrictions.

The CPT has called upon the Danish authorities to ensure that the police are given detailed instructions as regards recourse to prohibitions/restrictions concerning prisoners' correspondence and visits, and that there is an obligation to state the reasons in writing for any such measure. Further, 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 should be considered as a separate issue.

110. Material conditions of detention were of a high standard at Elsinore Local Jail and were acceptable at Horsens and Vridsløselille Prisons. However, the CPT has welcomed the planned construction of a new establishment to replace the existing 150 year old Horsens Prison by 2006. As regards Vridsløselille, the CPT has recommended that the existing renovation programme be implemented without delay; the buildings were in a poor state of repair and the cells in the high security and reception units were particularly dilapidated.

While conditions of detention at Sandholm were on the whole acceptable, the Committee has made clear that a prison is by definition not a suitable place in which to hold immigration detainees. It has recommended that efforts be made to make the environment there more appealing.

The CPT has also made clear that female detainees should only be held in cells or dormitories within male accommodation areas with their unequivocal agreement; this requirement was not being met at Elsinore, Horsens and Sandholm.

111. The regimes offered to inmates in the prisons visited varied considerably depending on the category of prisoner. A large number of sentenced prisoners in full association spent a reasonable part of the day engaged in work, education or leisure activities, in well-appointed facilities.

By contrast, the work offered to sentenced prisoners excluded from association was of a monotonous character and was not always available in sufficient quantity. The CPT has also expressed concern about the duration of exclusion from association (which on occasion had lasted more than three years) and misgivings about the restrictive regime of remand prisoners (who remained locked in their cells for up to 21 hours every day).

The CPT has recommended that the authorities take steps to develop adequate programmes of activities for all prisoners, including those on remand and to ensure that remand prisoners at Horsens have access to an adequately-sized outdoor exercise facility. It has also recommended that the regime at Sandholm be improved and that better use be made of existing facilities in that establishment.

112. The health care provided to inmates in the prisons visited was for the most part satisfactory. At Sandholm, however, the delegation discovered numerous and significant delays in responding to inmates' requests for medical attention, as well as serious failings as regards follow-up of medical problems and respect for the principle of equivalence of care. The CPT has recommended that Sandholm's health care service be reviewed without delay. Further, the Committee has recommended medical screening on admission of all newly arrived prisoners, as well as a strengthening of the psychiatric services available at Sandholm and the psychological services at Horsens, Vridsløselille and Sandholm. It has also encouraged the authorities to pursue their efforts in the field of health policy vis-à-vis prisoners with drug problems.

113. Other issues addressed by the CPT in its report include information to prisoners and prison staff-related matters. The Committee has recommended that steps be taken to ensure that the existing information leaflets for inmates are in fact given to prisoners on their arrival, and that immigration detainees be kept duly informed about their situation and the procedures applied to them. It has also mentioned the importance of addressing the cause of relatively high levels of absenteeism among custodial staff in some establishments and underlined the importance of appropriate training, both initial and ongoing, for staff.

C. Psychiatric establishments

114. The delegation received no allegations of ill-treatment of patients by staff in the three establishments visited, and gathered no other evidence of such treatment. Indeed, it found a relaxed atmosphere and a staff-patient relationship based on trust.

115. Nevertheless, the CPT has expressed concern about the frequent recourse to physical immobilisation of patients, which could last for several days, or even one week or more; on occasion, long periods of restraint were interrupted by brief periods without restraints. One "voluntary" patient met by the delegation had been restrained for 17 days, with a 24 hour interruption during this period.

While it may sometimes be necessary, as a last resort, to restrain a patient physically, applying instruments of physical restraint to psychiatric patients for days cannot have any medical justification and amounts, in the CPT's view, to ill-treatment. The Committee has recommended that the practice of immobilising patients be reviewed as a matter of urgency, and that the Danish authorities ensure that all patients who are subject to immobilisation benefit from the appointment of a patient adviser as from the outset of that measure. Further, patients should never remain immobilised in sight of other patients.

116. The inadequate number of psychiatrists in all of the hospitals visited was a matter of concern to the CPT, as was the low percentage of qualified nurses; further, in certain establishments the number of psychologists was also insufficient. The CPT has recommended that the authorities review the staffing levels in the psychiatric units visited.

117. On the whole, the material conditions offered to patients in the three establishments visited were of a high standard. Nevertheless, the CPT has recommended the installation of a call system in the rooms of less autonomous patients. Further, unless there are medical reasons to the contrary, all involuntary patients should benefit from at least one hour of outdoor exercise every day in satisfactory conditions (i.e. sheltered from inclement weather).

118. As regards medical treatment, the delegation found no signs of over-medication. Medical records were detailed and precise, and medical confidentiality was respected. However, due to the inadequate number of psychiatrists and, on occasion, psychologists, the group and individual psychotherapy available in the hospitals visited was insufficient. Further, the CPT has recommended that steps be taken to offer patients at Glostrup Hospital access to proper occupational therapy workshops.

The CPT's delegation paid particular attention to the practice of close or constant supervision or shielding ("skærmning") of patients. This is considered as a therapeutic tool and is prescribed by a doctor; it includes measures ranging from staff knowing where the patient is at all times to strapping the patient to a bed or locking the unit's inner door. The CPT has suggested that national standards be drawn up to govern this practice and recommended that all patients who are subject to shielding benefit from the appointment of a patient adviser.

119. The CPT has noted that the placement and treatment of psychiatric involuntary patients is surrounded by a number of formal safeguards and, in particular, has welcomed the appointment of a patient adviser as from the outset of civil placements. The Committee has proposed the strengthening of certain safeguards; for example, it has recommended that transforming a voluntary stay in hospital into involuntary retention require an opinion from a second doctor independent of the hospital. Further, all forensic in-patients should benefit, without exception, from the appointment of a representative with the same skills and duties as patient advisers. The introduction of a system of review of involuntary placements by an independent body has also been recommended.

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

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

121. 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 formulated in this report which are listed in Appendix I, as well as replies to the requests for information made.

APPENDIX I

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

A. Police establishments

Ill-treatment

comments

- the Danish authorities are invited to remind police officers in an appropriate manner, at regular intervals, that no more force than is strictly necessary should be used when effecting an arrest (paragraph 8).

requests for information

- the number of persons injured in 2002 by dogs used by the police (paragraph 8).

Conditions of detention

recommendations

- the 2.8 m² holding rooms of the Horsens Criminal Investigation Police - and any other similar holding facilities in Denmark - to be withdrawn from service (paragraph 10);
- steps to be taken to ensure that all detention facilities, including the two larger holding rooms at Horsens, are kept in a satisfactory state of cleanliness and repair (paragraph 10).

requests for information

- confirmation that persons detained at Station No. 1 in Copenhagen are guaranteed ready access to toilet facilities (paragraph 11).

Safeguards against the ill-treatment of detained persons

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 outset of their detention. Any possibility exceptionally to delay the exercise of this right to be clearly circumscribed in law, made subject to appropriate safeguards (e.g. 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) and strictly limited in time (paragraph 16);
- steps to be taken to ensure that the right of detained persons to have access to a lawyer is fully effective as from the very outset of custody (paragraph 18);
- 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 19);
- the requirement that the police inform detained persons of their potential liability as regards costs to extend to the fact that the court may decide to limit that liability (paragraph 19);
- steps to be taken to ensure that the confidentiality of medical data is fully respected in practice in police stations (paragraph 21);
- steps to be taken to ensure that detained persons are systematically informed of their rights and provided with a copy of the leaflet setting them out. Detained persons to be asked to certify with their signature that they have been informed of their rights and, if necessary, the absence of a signature in a given case to be explained (paragraph 23);
- immigration detainees to be guaranteed a right of access to a lawyer as from the very outset of their custody (paragraph 26).

comments

- detained persons should have the right in all cases to be examined by a doctor of their own choice; if it were thought that such a contact could obstruct the investigation, the examination could always take place in the presence of a state-appointed doctor (paragraph 20);
- the Danish authorities are invited to establish a system of regular visits to police establishments by an independent authority (paragraph 25).

requests for information

- information on training provided specifically for police officers required to deal with immigration detainees (paragraph 27).

B. Prisons

Ill-treatment

comments

- staff at Sandholm should be reminded that they must always treat immigration detainees in their custody with respect (paragraph 30).

requests for information

- the outcome of the police investigation into allegations of ill-treatment of a prisoner at Horsens Prison by staff (paragraph 30).

Inter-prisoner violence and intimidation

recommendations

- a decision to classify a prisoner as negatively strong to be reviewed at regular intervals (e.g. every three months) (paragraph 33);
- further steps to be taken to remedy the predicament of vulnerable prisoners (paragraph 35).

requests for information

- the exact criteria for classifying a prisoner as negatively strong (paragraph 33).

Solitary confinement of remand prisoners by court order and other restrictions

recommendations

- in compliance with Article 776 of the Administration of Justice Act, rules to be adopted and implemented without delay to ensure that prisoners held in isolation have increased staff contact and access to visits, individual work and teaching, and are offered regular and longer conversations with chaplains, doctors, psychologists and other persons (paragraph 38);
- the CPT's recommendations concerning the imposition of restrictions to be implemented without further delay, namely:
 - police to 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;
 - in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters to be considered as a separate issue (paragraph 39).

comments

- 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 (paragraph 37).

Conditions of detention

recommendations

- the existing renovation programme at Vridsløselille to be implemented without delay (paragraph 43);
- efforts to be made to make the environment at Sandholm more appealing (paragraph 44);
- female prisoners only to be held in cells or dormitories situated within men's accommodation areas on condition that the female prisoners involved unequivocally agree and are adequately supervised (paragraph 45);
- steps to be taken to develop adequate programmes of activities for all prisoners, including those on remand (paragraph 48);

- steps to be taken to ensure that remand prisoners at Horsens have access on a daily basis to outdoor exercise facilities which are large enough to permit them to exert themselves physically (paragraph 50);
- the regime offered at Sandholm to be improved; in particular, full use to be made of the school and the gym, and work, preferably with vocational value, to be provided in sufficient quantity (paragraph 51);
- immigration detainees in wing 18 East at Sandholm to be offered access to a leisure room (paragraph 51).

comments

- some complaints were heard at Sandholm that food was served cold and did not take account of the immigration detainees' dietary habits (paragraph 44);
- the CPT trusts that detainees at Sandholm are now guaranteed one hour of outdoor exercise every day (paragraph 51);
- efforts should be made to offer immigration detainees better telephone access (paragraph 52).

requests for information

- any development concerning the prisoner excluded from association at Vridsløselille referred to in paragraph 47 (paragraph 47);
- further information on progress being made in the implementation of the legal requirement that an individual custody plan be drawn up for each sentenced prisoner (paragraph 49).

Health-care services

recommendations

- steps to be taken to ensure that all newly arrived inmates are interviewed and medically examined by a doctor as soon as possible after their admission. Such medical screening can also be carried out by a qualified nurse reporting to a doctor (paragraph 54);
- the confidentiality of medical data to be fully respected in prison establishments (paragraph 55);
- the resources and functioning of the health care service at Sandholm to be reviewed without delay, in order to ensure that all inmates are offered the level of care which they are entitled to expect. Measures also to be taken to prevent the spread of transmissible diseases (paragraph 57);

- the psychological services in all of the establishments visited and the psychiatric services at Sandholm to be reviewed (paragraph 58).

comments

- the Danish authorities are encouraged to pursue their policy regarding drug abuse, in particular by ensuring that appropriate health care services and life skills rehabilitation for inmates with drug problems are available in all prison establishments (paragraph 59).

Other issues

recommendations

- steps to be taken to ensure that information leaflets are given to inmates on their arrival in prison (paragraph 61);
- immigration detainees to be kept duly informed about their situation and the procedures applied to them (paragraph 62);
- further attention to be devoted to the training needs of staff working at Sandholm (paragraph 68).

comments

- current arrangements for handling and, in particular, registering complaints should be reviewed at Horsens and Vridsløselille Prisons (paragraph 63);
- the Danish authorities are encouraged to take steps to re-introduce the operation of the Internal Inspection (paragraph 64);
- an important objective in all prisons should be for staff to become more closely acquainted with inmates during day-to-day contacts (paragraph 66);
- in the context of prison officers' training, considerable emphasis should be placed on the acquisition and development of inter-personal communication skills. Further, prison officers' access to ongoing training should be a priority (paragraph 67).

requests for information

- measures taken to address the problem of absenteeism among custodial staff, in the light of the results of the survey carried out in 2001 by the Prison and Probation Service (paragraph 65).

C. Psychiatric establishments

Ill-treatment

recommendations

- the practice of immobilising patients to be reviewed as a matter of urgency (paragraph 75);
- the immobilisation of patients never to take place in sight of other patients (paragraph 76).

Staff resources

recommendations

- the staffing levels in the psychiatric units visited to be reviewed. More particularly, as soon as possible:
 - the number of psychiatrists to be increased in the Nykøbing Sjælland forensic psychiatric department, and in the in-patient hospital units at Haderslev;
 - the vacant psychiatrist post at Glostrup forensic psychiatric department to be filled;
 - the vacant psychologist post at Nykøbing Sjælland to be filled (paragraph 81).

comments

- the Danish authorities are invited to review the decision to reduce the staff in charge of the occupational therapy workshops in the Glostrup Psychiatric Department (paragraph 81).

Living conditions of patients

recommendations

- a call system to be installed in the rooms of less autonomous patients; in particular, such a system to be introduced in the psychogeriatric units in Glostrup in the course of its impending renovation (paragraph 83);
- unless there are medical reasons to the contrary, all involuntary patients to benefit from at least one hour of outdoor exercise every day in satisfactory conditions (i.e. sheltered from inclement weather) (paragraph 84).

comments

- the CPT has misgivings concerning outdoor exercise arrangements in one forensic unit at Glostrup (paragraph 84).

Treatment

recommendations

- steps to be taken to enable Glostrup Psychiatric Department to offer patients access to proper occupational therapy workshops (paragraph 88).

comments

- the group and individual psychotherapy available in the various hospitals visited was insufficient (paragraph 85);
- the CPT suggests that national standards be drawn up to govern the practice of shielding (paragraph 86).

requests for information

- developments concerning the consultation process underway in Denmark in respect of shielding (paragraph 86);
- comments on the subject of locking patients in their rooms during the day at the Nykøbing secure unit and, more particularly, on its therapeutic grounds and legal basis (paragraph 87).

Safeguards for psychiatric patients

recommendations

- the decision to transform voluntary stay in hospital into involuntary retention to require an opinion from a second doctor who is independent of the hospital (paragraph 91);
- steps to 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 (paragraph 92);
- a system of review of involuntary placements by an independent body to be introduced (paragraph 95);

- all patients who are subject to immobilisation to benefit from the appointment of a patient adviser as from the outset of that measure (paragraph 98);
- all patients who are subject to shielding to benefit from the appointment of a patient adviser as from the outset of that measure (paragraph 99).

comments

- the Danish authorities are invited to consider providing appropriate initial and ongoing training to patient advisers (paragraph 90);
- steps should be taken to ensure that patients have access to the telephone under conditions which respect their right to privacy (paragraph 101);

requests for information

- comments on the fact that it is not required that the doctors appointed to a local county complaints board and to the national complaints board be qualified psychiatrists (paragraph 93);
- confirmation that, in all cases, there is a possibility of judicial review of an involuntary placement (paragraph 94);
- the procedure applicable to forensic patients' placement in the Nykøbing secure unit (paragraph 96).

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
William RENTZMANN	Director General of the Prison and Probation Service
Annette ESDORF	Deputy Director General of the Prison and Probation Service
Lars Bay LARSEN	Deputy Permanent Secretary of State for Justice
Lise-Lotte NILAS	Deputy Permanent Secretary of State for Justice
Lene FRANK	Assistant National Commissioner of Police
Lars STEVNSBORG	District Attorney at the Office of the General Attorney

Ministry of Foreign Affairs

Jens FÆRKEL	Minister Counsellor
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Ministry of Social Affairs

Grete BUUS	Deputy Permanent Secretary of State for Social Affairs
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Ministry of Internal Affairs and of Health

Søren Hansen THOMSEN	Head of Division
Lene CHISTENSEN	Head of Section

Ministry of Integration

Martin ISENBECKER

Adviser

Other authorities

Hans GAMMELTOFT-HANSEN

Parliamentary Ombudsman

Secretariat of the Article 71 Parliamentary Committee

B. Non-governmental organisations

The Danish Refugee Council

KRIM

The Isolation Group