



CPT/Inf (2013) 11

## **Response**

**of the Danish Government  
to the report of the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
on its visit to Greenland**

**from 25 to 27 September 2012**

The Danish Government has requested the publication of this response. The report of the CPT on its September 2012 visit to Greenland is set out in document CPT/Inf (2013) 3.

Strasbourg, 3 July 2013



**Response of the Danish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Greenland from 25 to 27 September 2012. [Danish response in *italic*]**

**Paragraph 11 in CPT's report**

CPT's recommendation concerning paragraph 11:

- steps to be taken to ensure that all persons detained by the police in Greenland have a formally recognised right to inform a relative, or another third party of their choice, of their situation, as from the very outset of their deprivation of liberty. Any possibility exceptionally to delay the exercise of this right in order to protect the interests of justice should be clearly circumscribed in law and made subject to appropriate safeguards (i.e. any delay to be recorded in writing with the reasons therefore, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor).

CPT's comment concerning paragraph 11:

- detained persons should be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their deprivation of liberty.

*The Chief Constable of Greenland has informed that the following is a result of his Orders of the Day Number 1 regarding detention, in so far as the allowance of detainees to inform others about their detention: (The Chief Constable's Orders of the Day are binding on the staff members.)*

*"9. Other decisions regarding the treatment of arrestees.*

*The police will, in all cases where the conditions are appropriate and if it is in accordance with the purpose of the arrest, meet the arrestees request to inform his/her next of kin of the arrest. Regarding persons under 18 years of age, the social authorities are always informed of the arrest, and those at the person's home are informed to the extent possible, even without a request from the arrestee.*

*The time of detention and release are also to be noted in the file of the criminal case, according to the Administration of Justice Act for Greenland section 356*

*The guide for arrestees and detainees (published by the Directorate for Prison Services in January 2002) must always be issued to arrestees in connection with placement in detention."*

*The Chief Constable of Greenland has also informed that the notification etc. is documented in the form of a report.*

*The Chief Constable of Greenland is not aware of any cases where a detainee, for instance after an inquiry regarding this subject, has not been informed if the request for notification to of his/her next of kin has been carried out.*

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

#### CPT's recommendation concerning paragraph 12:

- steps to be taken to ensure that the right of all persons detained by the police in Greenland to have access to a lawyer is fully effective as from the very outset of deprivation of liberty.

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#### CPT's comment concerning paragraph 12:

- the Danish authorities are invited to improve the legal assistance available in Greenland to persons in police custody. Particular attention should be paid to the quality and the independence of the legal assistance offered.

*The rules regarding interrogation, etc. are stated in the Administration of Justice Act for Greenland:*

#### *"Interrogation by the police*

*Section 346. The police can conduct interrogations, but cannot require a person to give an explanation. A person may not be forced to make a statement. However, each interrogee must (if requested) provide name, address and date of birth to the police. The refusal to do so can result in a fine.*

*Subsection 2. The significant content of the statements is noted in the reports. Particularly important parts of the statements are reproduced to the extent possible with the interrogee's own words.*

*Subsection 3. The interrogee must be given the opportunity to familiarize him/herself with the reproduction of his/her statement. The interrogee's possible changes or additions are taken into account. The interrogee is offered the opportunity to sign the report, but is made aware that there is no requirement to do so. In the report it must be evident that these rules have been observed.*

*Subsection 4. An audio recording of the statement is only permissible if the interrogee is made aware of it.*

*Section 347. Before the police interrogate someone, the subject must be made expressly aware of the charges and the subject's right to remain silent. It must be evident in the report that these rules have been observed.*



*Subsection 2. The Minister of Justice sets the rules regarding in which cases the municipality must be informed and have access to observe the interrogation of interrogees under the age of 18.*

*Subsection 3. The questions posed to the interrogee must not be presented in such a way that something denied or not confirmed is deemed to be confessed. Promises, false information or threats must not be used.*

*Subsection 4. The duration of the interrogation must not be extended for the sole purpose of gaining a confession. If interrogations are not very brief it must be stated in the report the time for the beginning and end of the interrogation.*

*Subsection 5. The interrogee cannot ask his attorney or others for advice in answering the questions.*

*Section 348. When the police interrogate a person who is not charged, the rules in section 147 part one, section 154 and section 156 parts one and two are applicable."*

*In connection with the entering into force of the current Administration of Justice Act for Greenland the Chief Constable of Greenland has sent the following information to the police of Greenland:*

*"New Administration of Justice Act – Guide for persons charged*

*The new Administration of Justice Act, which entered into force 1 January 2010 contains rules about the police's guidance of persons charged. It states something new, that a person charged (in addition to an orientation to the contents of the charges and the right to remain silent) must be counseled about the opportunity to be assisted by a defense attorney.*

*It must be evident in the police report that the person charged has been counseled to this extent. The following can be stated in the report:*

*'The person charged has been made aware of the content of the charges and that (s)he is not required to make a statement to the police.*

*The person charged has been made aware of his/her right to choose a defense attorney allowed to attend the meeting, or upon request that the court may appoint him/her one.'*

*A person charged must in this connection also be informed that (s)he will have to pay for the cost of a self-chosen defense attorney and that it is the right of the police district to decide whether a defense attorney will be appointed. The request of the person charged to choose a defense attorney or the court's appointment of a defense attorney does not prevent the commencement or continuation of the interrogation if the person charged is willing to make a statement without the presence of a defense attorney. In this case this should be noted in the report.*

*As soon as possible further guidelines will be produced regarding the potential role of the defense attorney in connection with the interrogation by the police of a person charged."*

*It was consequently evaluated and decided that for the time being it is not necessary to produce guidelines regarding the defense attorney's role in interrogations, beyond those already established in the Administration of Justice Act.*

### **Paragraph 13 in the CPT's report**

CPT's recommendation concerning paragraph 13:

- legal provisions to be introduced, ensuring that all persons in police custody in Greenland have an effective right to be examined by a doctor (including a doctor of their own choice, it being understood that an examination by such a doctor may be carried out at the detained person's own expense).

*The Chief Constable of Greenland has informed that the following is contained in his orders of the day number 1 regarding detention, in so far as regards the examination of an arrestee by a doctor:*

*"3.2 Evaluation by a doctor, etc.*

*If there is information that the arrestee is or can be suicidal, he or she must be seen by a doctor prior to incarceration with a view to professional evaluation of whether the incarceration of the subject, with the person's safety in mind, is defensible. If no doctor can be found in the city or within the area then the subject can be seen by a nurse or another representative of the healthcare authorities.*

*This is also the case if according to information regarding personal relations, etc. it cannot be ruled out that the arrestee is suicidal: for instance 1. because the subject within the last 2 years has been under the authority of an institution according to Greenland's Criminal Code Section 157, 2. Because the subject is known in connection with forced hospitalization based on red papers 3. Because the subject is known for previously having attempted suicide or 4. because there is other information that indicates that the subject can be suicidal.*

*The subject must be seen by a doctor if there is a suspicion that the arrestee is sick or injured. In order to assure the best possible grounds for evaluating the state of health of the subject, the police should pay attention to what state the subject is in at first contact, including whether the subject inflicted injuries upon him/herself. Furthermore, the point of encounter should be searched for bottles, medicine, syringes or otherwise. Possible witnesses present should be asked about the subject's behaviour.*

*If there is a suspicion that the arrestee after incarceration has become suicidal, sick or injured the person should immediately be seen by a doctor, etc.*

*If an arrestee is under the influence of alcohol to such an extent that incarceration of the person for this reason is deemed very necessary then the subject, to the extent possible, in any case must be seen by a doctor before incarceration, cf. paragraph 2.1."*



*Regarding the access of the detainee to be seen by a doctor of his/her own choosing, the Chief Constable of Greenland has informed that in Greenland there are no private physicians. The medical services in Greenland always take place under the umbrella of the health services authority, and according to the decision of the health services authority about which doctor(s) is/are on watch, etc. There is therefore no citizen in Greenland that has the opportunity to consult a specific doctor. This applies also to detainees, who are to be seen by medical staff.*

### **Paragraph 14 in the CPT's report**

#### CPT's recommendation concerning paragraph 14:

- a specific record to be kept of the fact that detained persons have been provided with information on their rights; detained persons should be asked to certify with their signature that such information has been provided and, if necessary, the absence of a signature in a given case should be explained.

#### CPT's comment concerning paragraph 14:

- it would be advisable to draw up information sheets given to persons detained by the police in a range of other languages (e.g. English, Russian, etc).

*As stated in the Chief Constable of Greenland's Orders of the Day Number 1 regarding detention, the guide for arrestees and detainees (produced by the Directorate for the Prison Services, January 2000) must always be given to the arrestee in connection with placement in detention.*

*The Chief Constable of Greenland has requested that the Directorate for the Prison Services consider whether there are grounds for the producing of an English language version of the guide, for use on rare occasions when the arrestee speaks neither Danish nor Greenlandic.*

*Furthermore, in connection with a future revision of the orders of the day number 1, the Chief Constable of Greenland will consider whether it would be appropriate to document to a greater extent than today the handing over of this guide.*

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

#### CPT's request for information concerning paragraph 16:

- whether there are any plans to adopt new rules on handling of police complaints in Greenland.

*The Greenlandic self-government has advised that the self-government at this time has no plans to ask the Danish Government to begin any law changing procedures regarding the rules*

*on handling of police complaints. The subject of changes concerning the handling of police complaints has as yet not been up for political discussion in Greenland.*

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

CPT's request for information concerning paragraph 17:

- the number of complaints about misconduct of the police in Greenland received in 2012, and the outcome of those complaints.

*It appears from the report from the CPT that the Chief Constable of Greenland in connection with the visit from the CPT in September in 2012 advised that 18 police complaints board cases were received both in 2010 and in 2011 and that two disciplinary sanctions were given in 2010 and one in 2011.*

*The Chief Constable of Greenland has noted that the actual number of disciplinary sanctions should be three for 2010 (and not two) and two for 2011 (and not one).*

*Furthermore, the Chief Constable of Greenland has advised that a total of 16 police complaints board cases were received in 2012. The distribution of the 16 complaints were 6 behavioural complaints, 7 criminal cases, one section 17(2) cases (case where a person has died or been seriously injured as a consequence of police intervention or while the person in question was in police custody) as well as two notice cases (behavioural complaint cases which are ended by a conversation between a superior police officer and the complainant).*

*In addition, the Chief Constable of Greenland has advised that 6 disciplinary sanctions were given in 2012. Two of these sanctions concern cases which were started on the basis of a police complaint board case. It is the National Commissioner of the Police who since November 2011 holds the authority to give disciplinary sanctions.*

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

CPT's request for information concerning paragraph 18:

- observations of the Danish authorities on the monitoring of police detention facilities in Greenland by an outside authority

*The Danish Parliamentary Ombudsman has made monitoring visits to the Nuuk police detention facility and the Nuuk closed prison in 1993, 1999, 2001 and 2006. A new visit is planned for September 2013. Detailed reports from these visits have been posted on the Ombudsman's website. There is no English version of the reports.*

*The Danish Ombudsman can inspect Greenland institutions which fall within the jurisdiction of the central authorities of the Realm while the Greenland Ombudsman has jurisdiction with regard to those institutions which fall under the Greenland Self-Government.*



*The police detention facilities in Greenland and the closed prisons in Greenland belong under the central authorities of the Realm, pursuant to section 3 of the Act on Greenland Self-Government (act No. 473 of 12 June 2009 on Greenland's Self-Government).*

*Section 3 of the Act on Greenland Self-Government has the following wording:*

*"(1) Fields of responsibility that appear from List I of the Schedule shall be transferred to the Greenland Self-Government authorities at points in time fixed by the Self-Government authorities.*

*2) Fields of responsibility that appear from List II of the Schedule shall be transferred to the Greenland Self-Government authorities at points in time fixed by the Self-Government authorities after negotiation with the central authorities of the Realm."*

*The said List II of the Schedule of the Act mentions among others the Prison and Probation Service, the police and the prosecution service together with the associated branches of criminal justice. These fields have not yet been transferred to the Greenland Self-Government and thus fall under the central authorities of the Realm.*

*The police detention facilities and the prisons are the responsibility of the Ministry of Justice, respectively the National Police Commissioner for Greenland/the National Police and the Department of Prisons and Probation. The psychiatric ward of Queen Ingrid Hospital, Nuuk, is the responsibility of the Greenland Self-Government and has been inspected in 2012 by the Ombudsman of Greenland as the National Preventive Mechanism (NPM) of Greenland.*

*Section 7 of the Danish Ombudsman Act has the following wording:*

*"The jurisdiction of the Ombudsman shall extend to all parts of the public administration. The Ombudsman's jurisdiction also extends to conditions for persons deprived of their liberty in private institutions, etc. where deprivation of liberty has been effected, either pursuant to a decision by a public authority, on the request of a public authority, or with the consent or agreement of a public authority. In addition, the jurisdiction of the Ombudsman extends to the conditions for children in private institutions, etc., which are directly responsible for tasks related to the care of children."*

*It follows from section 7 that the Danish Ombudsman has jurisdiction over the central authorities of the Realm while it appears from section 18 of the Act that the Ombudsman can make monitoring visits to institutions under the central authorities of the Realm.*

*Section 18 of the Danish Ombudsman Act has the following wording:*

*"The Ombudsman may inspect any institution or company or any place of employment which fall under the jurisdiction of the Ombudsman. In connection with such inspections, and additional to what follows from section 21, the Ombudsman may inspect conditions relating to an institution's or an authority's organisation and operation together with conditions relating to the treatment of and activities for the users of the institution or the authority, based on universal and humanitarian standards."*

*The Ombudsman agrees with the CPT that, in order to be effective, a monitoring authority must make regular monitoring visits.*



*The Ombudsman's mandate according to the OPCAT protocol means that there are more than a 1000 institutions eligible for a monitoring visit. From and including 2013 the Ombudsman will carry out monitoring visits to about 75 institutions a year. Consequently, the Ombudsman makes a risk assessment of the institutions with a view to determining where the Ombudsman's monitoring resources will be used to best effect for the citizens. Many of these institutions are subject to supervision from other authorities than the Ombudsman. The reports of these authorities are included in the Ombudsman's risk assessment, together with information from the media. The risk assessment also includes an assessment of the severity of the deprivation of liberty and the citizen's vulnerability.*

*For many years the Ombudsman has carried out inspections in various institutions including the institutions of the Department of Prisons and Probation. In 1997 the Ombudsman's Act was amended and it was presupposed by Parliament that the Ombudsman's inspections of the institutions of the Department of Prisons and Probation should be more frequent and systematic. This amendment was done on the basis of a recommendation from the CPT. Consequently the Ombudsman has since 1997 carried out inspections in this manner of the institutions of the Department of Prisons and Probation also in Greenland. The institutions of the police and the prison service are visited much more frequently than a purely mathematical distribution of the Ombudsman's monitoring resources would dictate.*

*As can be seen from the information above on the Ombudsman's monitoring visits to Greenland, these visits are carried out at 5 year intervals on average.*

*It is the Ombudsman's opinion that this frequency is reasonable based on a weighing of the factors included in the risk assessment and the amendment of the Ombudsman's Act in 1997. As mentioned above, the Ombudsman will carry out the next monitoring visit to Greenland in September 2013.*

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

CPT's request for information concerning paragraph 20:

- precise information, in respect of the year 2012, on the number of remand prisoners who were held at Nuuk Police Station and, in each case, for how long.

*The Chief Constable of Greenland has advised that 18 persons were detained in the police detention in Nuuk in 2012. This includes information about detention which is to be considered detention in a waiting room (detention in the holding cell for less than 24 hours). The 18 detainees are distributed as follows:*

<i>Number of persons detained for more than 24 hours but less than 2 days</i>	<i>9</i>
<i>Number of persons detained for more than 2 days but less than 3 days</i>	<i>4</i>

<i>Number of persons detained for more than 3 days but less than 4 days</i>	<i>4</i>
<i>Number of persons detained for more than 4 days but less than 5 days</i>	<i>0</i>
<i>Number of persons detained for more than 5days but less than 6 days</i>	<i>1</i>

*Furthermore, the Chief Constable of Greenland has issued guidelines on confinement in prison and detention cells in Order No 1. From this it appears that persons, who are detained pursuant to the Administration of Justice Act of Greenland, only in special cases may be briefly placed in police detention.*

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

CPT's request for information concerning paragraph 21:

- further details of plans to thoroughly refurbish Nuuk Police Station, including the timeline for their implementation.

*The plan for rebuilding and renovating Nuuk police headquarters is proceeding as expected. The project plans/schedules are now in consultation with Nuuk municipality. Work can take its beginning 4 months after final approval of the municipality. It will take about one year to complete the work. At present, the rebuilding is expected to be completed in the summer of 2014.*

*It has long been the plan to rebuild/renovate Nuuk police headquarters. In March 2012, the National Police executive board decided to carry through a complete rebuilding/renovation of the police station. The board subsequently decided on a solution where the police academy is included in the existing building. The result is better use of building space. For example, by liberating premises there will be space available that can be converted into offices with day light. The scheduled building activities will thus secure optimal space and office solutions for the police in Nuuk.*

*Bygningsstyrelsen (the national building agency) and the consulting architect office have declared that within the existing frames it is possible to build, if necessary, an extension where the police academy will be integrated on the top first floor without jeopardizing the space needed for carrying out everyday police tasks. On the basis of i.a. statements of the number of personnel and the time they take off in lieu of payment for overtime, the consulting architect office has drawn up a draft space plan of the building showing the integration of the police academy on first floor with separate entrance from a new, separate stair turret. Further, a new extension will include bath and changing facilities as well as space for IT and other technical equipment, if necessary.*



*The project plans were sent to Nuuk municipality on 10 January 2013 for comments. If Nuuk municipality has no comments or objections to the project, the Danish National Police will recommend to the national building agency that the project can be initiated at once.*

*The consulting architect office has stated that at the earliest work can begin 4 months after final approval of the suggested space plan. 2 months are needed for planning and official approvals, 1 month for notice and further 1 month for start-up and setting up the construction site. Consequently, start-up could be in May 2013, at the earliest. The construction period is estimated to be 1 year with anticipated delivery at the end of June 2014.*

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

### CPT's request for information concerning paragraph 22:

- the progress made in the construction of the new prison in Nuuk and more details of the new establishment, especially as regards the material conditions and the facilities for activities, association and visits.

*Regarding the progress made in the construction of the new prison in Nuuk, a location for the prison has been chosen and a building programme with a description of functional and technical requirements, etc., has been developed. In December 2012, a competition for the design of the new prison was launched among architectural and engineering firms. The participants delivered their proposals at the end of March 2013, and on 17 May 2013 a winner was announced. Subsequently, the winning proposal will be designed in detail.*

*The construction phase will begin in early 2015 and will be finished in 2017.*

*The new prison in Nuuk has a planned capacity of 76 places (including 40 places in closed regime), and it is scheduled for completion during the year of 2017.*

*Facilities for both occupation and leisure activities will be provided. As regards the facilities for occupation, there will be workshops and rooms for education and treatment, and as regards leisure activities there will be a sports ground, a gym, a library, a religious room (church) and a meeting room. In the sections (housing units) there will be rooms for association and a kitchen next to the cells.*

*Finally, there will be a visiting section, including a visiting room with a shower and a toilet and a flat with a shower, a toilet and a kitchen.*

### CPT's recommendation concerning paragraph 22:

- the construction of the new closed-type prison in Nuuk to be treated as a matter of priority.

*The opening of a new closed-type prison in Nuuk will make it possible to repatriate inmates from Greenland currently accommodated at Herstedvester Institution in Denmark and thereby bring them close to their own culture and environment. This is part of the purpose of the new prison.*

*Please be assured that the construction of the new closed-type prison in Nuuk is being treated as a matter of priority by the Danish Government.*

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

CPT's comments concerning paragraph 23:

- staff at Nuuk Prison should be reminded that they must always treat prisoners in their custody with respect.

*According to the Prison and Probation Service of Greenland, it always follows up on specific complaints from inmates concerning staff behaviour, including complaints of the tone used by staff towards the inmates. As a general rule, staff and the inmates are instructed to maintain a decent tone towards each other. This is done, e.g., when staff takes part in leisure activities with the inmates (such as sports). This quite informal and 'equal' association helps build mutual respect between staff and inmates. During the training of uniformed staff, considerable weight is moreover attached to subjects like ethics and morals, and the staff is also instructed in using a respectful tone as part of an improvement of dynamic security.*

- the management and staff of Nuuk Prison should be encouraged to exercise continuing vigilance as far as inter-prisoner violence is concerned.

*According to the Prison and Probation Service of Greenland, it always follows up on specific incidents of inter-prisoner violence by means of disciplinary sanctions. Moreover, considerable emphasis is also given to staff visibility among the inmates to prevent inter-prisoner violence from occurring at all. Additionally, CCTV has been set up in the entire institution.*

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

CPT's recommendation concerning paragraph 25:

- immediate steps to be taken to improve ventilation in the "Arrest" section of Nuuk Prison. Further, both closed sections of the establishment should be refurbished, starting with the toilets and showers.



*According to the Department of Prisons and Probation, an initiative was taken to improve the ventilation in the remand section of Nuuk Prison after the CPT's visit. Accordingly, plans were made for additional mechanical ventilation, which will noticeably improve the indoor climate. The Prison and Probation Service of Greenland stated on 7 May 2013 that the improvement of the ventilation of the remand section was now completed.*

*Following the CPT's visit to the prison, a refurbishment of the toilet and shower facilities of the remand section and the secure section was also commenced. The Prison and Probation Service of Greenland stated on 7 May 2013 that the refurbishment of the toilet and shower facilities was now completed.*

#### CPT's comments concerning paragraph 25:

- it would be highly preferable for the cells in the "Arrest" section to be used only for single occupancy.

*The Prison and Probation Service of Greenland has informed the Department of Prisons and Probation that the use of remand section cells for double occupancy is avoided as far as possible. However, at intervals the number of detainees may make it necessary to use double occupancy. It is observed in that connection that Nuuk Prison tries to minimise the use of double occupancy by a different and more flexible use of the sections in the prison. In continuation of this effort, the prison has made minor building alterations, including screening of windows facing on to a public road.*

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

##### CPT's recommendation concerning paragraph 27:

- the Danish authorities to ensure that all the prisoners currently accommodated in the mixed-sex sections of Nuuk Prison unequivocally agree to this arrangement and are adequately supervised.

*Nuuk Prison now has a screened section with room for six female inmates. The section was brought into service in November 2012 and has toilet and shower facilities, and a welfare officer is also attached to the section and is in charge of activities with the female inmates.*

*Hence, in the future, female inmates of Nuuk Prison will be able to stay in a special section separated from male inmates, and the prison estimates that with the establishment of the women's section it now disposes of a sufficient number of places reserved for female inmates, thereby obviating the need to place male and female inmates in the same section in the future.*



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

### CPT's recommendation concerning paragraph 29:

- steps to be taken to develop the programme of activities available to all inmates at Nuuk Prison, including those placed in the "Sikret" section for other than disciplinary reasons.

*Convicted inmates have a right and a duty of occupation by participating in work, education, training or other approved activity pursuant to section 210 of the Greenland Criminal Code. Under section 17(1) of Executive Order No. 1176 of 7 December 2009 on detainees, a detainee has no duty of occupation, but must be offered occupation.*

*The Prison and Probation Service of Greenland has informed the Department of Prisons and Probation that the following activities are offered to the inmates of the prison:*

*Activities with a welfare officer: The occupation room of the prison offers the following activities: Sewing machine, painting at easels, card games, music, PS3 games (PlayStation), jigsaw puzzles, baking and cooking. In December 2012, the new arts workshop of the prison was opened, and inmates are now able to produce tupilak figurines and other handicraft items from Greenland.*

*Lessons with a part-time teacher: All lessons take place in the school room of the prison and in the cells for those in solitary confinement who want to be taught in the cell. The subjects taught are Greenlandic, Danish and mathematics. Classes are divided by section, and two classes are taught per day, typically with five to eight inmates per class. A weekly total of 25 lessons.*

*Outdoor activities (escorted): It is possible to go on nature hikes and play soccer in a gym.*

*Work in the Prison: Inside the prison, work is available in the form of kitchen work, work as a section janitor, indoor and outdoor maintenance, snow clearing and laundry.*

*The Department of Prisons and Probation agrees with the comments of the CPT to the effect that the aim should be to offer all inmates, including inmates in the remand section and the secure section, purposeful activities of various kinds, including activities outside their cells.*

*With reference to the limitations imposed on the inmates in the secure section and the remand section, the Prison and Probation Service of Greenland has stated that the management of Nuuk Prison takes great care to offer activities outside the cells to inmates placed in the secure section for non-disciplinary reasons. This also applies to the detainees in the remand section.*

*However, the prison has a general problem of offering sufficient work to the inmates, including those in the secure section and the remand section.*

*As an alternative to work, these inmates are therefore offered the possibility of participating in leisure activities like sports three times a week, school/lessons twice a week and handicraft activities three times a week.*

*A welfare officer employed by the prison also pays particular attention to this group of inmates. In addition, both prison officers and caseworkers take extra care to have consultations with inmates placed in the secure section.*

*Moreover, according to the Prison and Probation Service of Greenland, inmates who do not want to associate with the other inmates in the secure section are offered individual tuition, activities in the occupation room and a possibility of extra outdoor exercise under staff supervision.*

*Additionally, the inmates in the secure section are regularly offered health consultations with a medically trained person, particularly to safeguard the inmates' mental health.*

*It should also be noted that both convicted inmates and detainees must receive a basic amount per hour under the rules of the Criminal Code and the Occupation Order if the institution is unable to offer them occupation due to lack of work assignments.*

*As mentioned above, Nuuk Prison has established various occupational and educational offers as well as leisure activities. The Department of Prisons and Probation has observed that the assessment of the need to launch any further initiatives in the present Nuuk Prison should be seen in light of the fact that, as previously mentioned, a completely new prison is to be built in Nuuk, expected to be completed in 2017.*

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

#### CPT's recommendation concerning paragraph 31:

- the Danish authorities to take necessary measures to ensure that all prisoners are examined by a doctor, or by a qualified nurse reporting to a doctor, within 24 hours of their admission to Nuuk Prison.

*The prisons in Greenland do not employ any medical staff, and all medical treatment of inmates is therefore carried out under the auspices of the existing healthcare system in the outside community.*

*Under section 209 of the Greenland Criminal Code, inmates are entitled to medical treatment and other healthcare. The provision gives inmates the same access and right to medical treatment, etc., as citizens who are not in custody.*

*According to Nuuk Prison, the local hospital is always informed of new arrivals. In that connection, a request for a medical examination of the inmate is made. In practice, the inmate is transported to the hospital for the medical examination, or a doctor comes to the prison to perform the medical examination. Other than in exceptional cases, the medical examination is given within the first week of incarceration.*

*On suspicion that an inmate is ill or needs medical or nursing care, the matter is immediately attended to.*



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

#### CPT's recommendation concerning paragraph 32:

- steps to be taken to ensure access to psychological and psychiatric assistance for the inmates at Nuuk Prison.

*As mentioned in the response to paragraph 31, inmates are entitled to medical treatment and other healthcare on an equal footing with citizens who are not in custody. Accordingly, inmates in prisons have no special access to psychological or psychiatric assistance compared with citizens in the outside community.*

*Nuuk Prison does not employ any psychological or psychiatric treatment staff. Psychological/psychiatric treatment is given under the auspices of the public health service system in the outside community to a limited extent.*

*However, according to the Prison and Probation Service of Greenland, it has established cooperation with the psychiatric ward of the Queen Ingrid Hospital in Nuuk, which provides advice and guidance in this field.*

*Moreover, according to the Department of Prisons and Probation, a psychologist employed in the unit for inmates from Greenland in Herstedvester Institution in Denmark has visited the prisons in Greenland to assist them as regards the treatment of inmates sentenced to safe custody. Through his work in Herstedvester Institution, this psychologist has a thorough knowledge of inmates from Greenland sentenced to safe custody and has therefore been able to assist the prisons with specific advice and guidance, and psychologist's certificates have been prepared for use in the consideration of applications for grant of leaves.*

*Currently, a psychologist and former employee of Herstedvester Institution is assisting the Prison and Probation Service in Greenland with the preparation of certificates and specific advice and guidance.*

*Finally, it should be noted that the Criminal Code and its travaux préparatoires are based on the assumption that it must be ensured when a safe custody unit is set up in the future new prison in Nuuk that the treatment capacity required in the specialist fields of psychiatry and psychology is available as far as possible when the new prison is ready for use. The details of the organisation of treatment will be arranged in close cooperation with the Greenland authorities.*

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

#### CPT's recommendation concerning paragraph 33:

- a comprehensive strategy for the provision of assistance to prisoners with alcohol and drug-related problems to be developed in Greenland, in the light of the remarks made in paragraph 33.

*In August 2012, the Prison and Probation Service of Greenland concluded an agreement on cooperation with a treatment centre called Katsorsaavik. As a first project, an offer of treatment for substance and alcohol abuse has been launched in Nuuk Prison, which is currently running a course of treatment of eight inmates. Inmates from other prisons can apply for a transfer to Nuuk Prison for the purpose of enrolling in the treatment project.*

*Moreover, inmates of Nuuk Prison may participate in AA meetings (Alcoholics Anonymous) inside or outside the prison.*

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

CPT's recommendation concerning paragraph 34:

- no medical document to be placed in prisoners' administrative records, and measures to be taken to guarantee full respect at Nuuk Prison of the confidentiality of medical data.

*According to the Prison and Probation Service of Greenland, no medical information is kept in the inmates' case files in the prison as such information is kept in the inmates' files in the public healthcare system.*

*When the Queen Ingrid Hospital is notified of new arrivals (mentioned in the response to paragraph 31), the hospital sends a receipt on its official stationery to the prison. The only thing that appears from the receipt is that the relevant inmate has been signed up for a routine health examination, and according to Nuuk Prison this receipt must have been the document observed by the CPT at its visit to the prison.*

### **Paragraph 35 in the CPT's report**

CPT's recommendation concerning paragraph 35:

- a daily visit by a nurse to Nuuk Prison to be ensured. Preferably, a doctor should be specifically appointed to be in charge of the health-care aspects of the establishment, and visit the prison at least once a week.

*Please see the response to paragraph 31 above.*

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

CPT's request for information concerning paragraph 38:

- observations of the Danish authorities on the apparent delays in arranging visits under police supervision at Nuuk Prison.



*It appears from the report that according to the assessment of the CPT there seems to be a lack of police staff to supervise visits to detainees in isolation or subject to controlled visits. According to the CPT, this means that visits may be substantially delayed.*

*The conditions concerning detention have been described in section 359 of the Administration of Justice Act of Greenland. It appears, i.a., that a charged person may be detained when there is reasonable suspicion that the person in question has committed a serious crime or a number of violations which have not previously been decided, and which under the act may carry a prison sentence and that under the circumstances there are specific reasons to assume that the charged person will make the prosecution of the case more difficult, in particular by removing traces or warn or influence others, cf. section 359(1)(2)(c) (risk of collusion).*

*Under section 373 of the Administration of Justice Act of Greenland the court may, under specific circumstances on request from the police decide that a detainee may be excluded from company of the other inmates (isolation).*

*The detainee cannot otherwise be kept separate from other persons or otherwise be subject to restraints to a further extent than the interest of order and safety at the place of detention requires, cf. section 378.*

*For considerations of the purpose of the detention, the police may object to the detainee receiving visits or demand that visits take place under supervision (controlled visits). If the police refuse visits, the detainee must be informed about this unless the court decides otherwise in the interest of the investigation. The detainee may demand that the rejection by the police to visits or the requirement of supervision must be brought before the court to be decided. The detainee will always be entitled to unsupervised visits by his/her defence lawyer, cf. in total section 379(1) of the Administration of Justice Act of Greenland.*

*The provision in section 379 is supplemented by executive order no 1176 of 7 December 2009 regarding detainees in which specific guidelines have been set concerning the detainees' right to visits.*

*The Chief Constable of Greenland has advised that it is not possible from the police systems to withdraw reliable information regarding the number of detainees who were detained in isolation in 2012. However, the number is very limited.*

*In addition, the Chief Constable of Greenland has advised that in 2012 132 persons were detained pursuant to section 359(1)(2)(c) (risk of collusion) of the Administration of Justice Act. Persons, who are detained due to the risk of collusion, will in most cases be subject to visit and letter control. Typically, this will be cases with several perpetrators, including perpetrators at large, and for instance cases concerning smuggling of drugs, robberies, more serious cases concerning violence, sexual offences, extensive offences against property and homicides.*

*In each case, a specific assessment is made of the need for restrictions in the detainee's contact with others and the proportionality of the restrictions in relation to the character and seriousness of the case.*

*Furthermore, the Chief Constable of Greenland has advised that no statistics are kept of how many detainees with visit control do not receive the requested visits.*



*At the same time, the Chief Constable of Greenland has said that they endeavour to ensure that the detainees who are subject to restrictions as far as at all possible can receive supervised visits or telephone conversations as needed. The tasks which are to be solved by the police staff do, however, place limitations on the possibility to hold supervised visits/telephone calls.*

*Nuuk Police has advised that in the cases where the police cannot participate in a desired visit - for instance if the request for a visit is put forward at very short notice - they will, instead of refusing the visit, as the main rule instead offer that the visit may take place at a later date when the police is able to participate. In that connection it is endeavoured that the time period between the requested time of the visit and the time offered is as short as possible.*

*It is the view of the Chief Constable of Greenland that only in very few instances a refusal is made to the request for a visit.*

*In addition, the Chief Constable of Greenland has advised that detainees - in addition to bringing a refusal for a visit to court - may also complain about the measures taken by the police in connection with a detention. A detainee - or his or her defence lawyer - will thus be able to complain about a refusal to receive visits to the Chief Constable of Greenland.*

*According to the information of the Chief Constable of Greenland no such complaints were received in 2012 by the Chief Constable and no such cases have been noted to have been brought to court.*

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

#### CPT's recommendation concerning paragraph 39:

- the following steps to be taken in Greenland in respect of police-imposed restrictions on remand prisoners' contacts with the outside world:
  - the 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;
  - 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;
  - that the remand prisoners concerned be given the right to appeal to the court against police-imposed prohibitions/restrictions;
  
- the practice of prohibiting access to a telephone to be reviewed and made subject to the same safeguards as those in respect of correspondence and visits.

*The rules regarding restrictions of a detainee's access to contact with the outside world are laid out in the Administration of Justice Act for Greenland:*

*"The circumstances during arrest:*

*Section 378. The detainee must not be isolated from other people or for that matter be given restrictions to a greater degree than is necessary for the maintenance of order and security at the place of detention.*

*Visits and temporary release:*

*Section 379. For the purpose of detention, the police can oppose visits to a detainee or can require that visits take place under control. If the police deny visits, the detainee must be informed of this, unless the court decides otherwise for reasons of an investigation. The detainee can demand that the police's rejection of visits or demand of control be presented to a court to decide upon. The detainee always has the right of uncontrolled visits by his defense attorney.*

*Part 2. The institution's leadership can, with the police's permission, give a detainee permission to leave the detention facility for a short period.*

*Letter control:*

*Section 380. The police can examine letters to or from a detainee before receipt or sending. The police must deliver as quickly as possible letters, unless the contents would be damaging for an investigation or the maintenance of order and security at the place of detention. If a letter is detained, the question regarding whether the detention should be maintained must be presented immediately to a court to decide upon. If the detention is maintained, the sender must immediately be informed, unless the court (with regard to an investigation) decides otherwise. A detainee has the right to the uncontrolled exchange of letters with the court, the defense attorney, the Minister of Justice, the director for the prison service, the Danish Parliamentary Ombudsman and the Parliamentary Ombudsman of Greenland. The Minister of Justice can establish rules regarding the detainee's right to send closed letters to other public authorities or individuals.*

*Court control of the limitation of other rights:*

*Section 381. If the police decide that for the purpose of detention other limitations should be placed on a detainee's rights, the detainee can demand that the question of the maintenance of these limitations be brought before a court to decide upon.*

*Part 2. Complaints about treatment under detention can be brought before the court."*

*The content of these rules is consistent with that of the Danish Administration of Justice Act.*

## **Paragraph 41 in the CPT's report**

CPT's request for information concerning paragraph 41:

- confirmation that the call systems in the observation and security cells at Nuuk Prison have been repaired.



*According to the Prison and Probation Service of Greenland, a new call system has been installed in the observation cells and the security cell after the CPT's visit, and the call system functions excellently.*

CPT's recommendation concerning paragraph 41:

- steps to be taken to improve material conditions in the observation and security cells at Nuuk Prison, in particular as regards access to natural light, artificial lighting and the general state of repair.

*According to the Department of Prisons and Probation, there is very limited access to natural light, particularly in the two observation cells, because the windows are very small. In addition, the windows are screened from the outside to prevent any possibility of looking into the observation cells as these cells face on to a public road. The windows in the observations cells have been made smaller in recent years because inmates vandalised and broke the windows.*

*According to the Department of Prisons and Probation, it has been decided to improve the artificial lighting in the observation cells and the security cell to compensate for the lack of access to natural light in these cells. This work will commence as soon as possible.*

*Moreover, a renovation of floors and walls in the observation cells and the security cell will be commenced in the near future.*

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

CPT's comment concerning paragraph 42:

- in the context of placements in observation and security cells at Nuuk Prison, reference is made to the comments in paragraph 71 of the report on the CPT's 2008 visit to Denmark.

*From paragraph 71 of the report on the CPT's 2008 visit to Denmark it appears that the approach to immobilisation in prisons, in the Committee's opinion, should take into consideration a number of principles and minimum standards.*

*Re appropriate use:*

*The use of forced immobilisation in Greenland is subject to a statutory principle of proportionality and considerateness. Accordingly, it appears from section 225(1) of the Greenland Criminal Code that forced immobilisation may only be applied in connection with confinement in a security cell if necessary to avert imminent violence or to overcome violent resistance or to prevent suicide or other self-mutilation. It further appears from section 225(2) of the Criminal Code that no forced immobilisation may be effected if such measure would be disproportionate in view of the purpose of the measure and the indignity and the unpleasantness presumably caused by the measure. Finally, it appears from section 225(3) of*

*the Criminal Code that forced immobilisation must be effected as considerately as circumstances permit.*

*Re attendance by a doctor:*

*In case of forced immobilisation of an inmate in a security cell, the institution shall promptly request a doctor to attend the inmate, and the doctor shall attend the inmate unless the doctor deems such attendance obviously unnecessary, see section 225(4) of the Criminal Code.*

*Re equipment:*

*In the assessment of the Department of Prisons and Probation, the equipment meets the requirements described by the CPT. Staff is also trained in the use of the equipment.*

*Re duration of fixation:*

*It appears from section 6 of the Greenland Executive Order No. 1163 of 7 December 2009 on the use of means of restraint in prisons that immobilisation may only exceptionally be applied for more than 24 hours. Immobilisation extending over more than 24 hours must be reported promptly to the Director of the Prison and Probation Service of Greenland, who then reviews the case, see section 12(3) of the Executive Order. If means of restraint are used for more than 24 hours, a doctor must be briefed daily to allow him to assess, on the basis of his knowledge of the inmate, etc., whether medical attendance is necessary, see section 10(4) of the Executive Order. The Prison and Probation Service of Greenland follows up on cases of this nature by checking after 48 and 72 hours whether the immobilisation has been maintained. This is very rarely the case.*

*Re information:*

*Section 11(1) of the Greenland Executive Order No. 1163 of 7 December 2009 on the use of means of restraint provides that a report must be made as soon as possible on the use of security cells and forced immobilisation. The report must state the reason for the use of the means of restraint, the date and time of termination of the use thereof and that the inmate has been briefed on the possibility of appealing to the Director of the Prison and Probation Service of Greenland and on expiry of the time-limit for lodging such appeal. Moreover, the report must provide information on the time when a doctor was summoned to attend an immobilised inmate. Upon request, the inmate must be given a copy of the report, see in this respect section 11(2) of the Executive Order.*

*Re formal written guidelines:*

*According to the Prison and Probation Service of Greenland, only one security cell is available in Greenland (located in Nuuk Prison). No written guidelines have been issued on the use of the security cell, including forced immobilisation. However, the basic training of prison officers includes lessons in the use of means of restraint, including the security cell, and a specific examination on this subject is given. For the purpose of further supporting casework, including safeguarding the rights of inmates when placed in a security cell, the Prison and Probation Service of Greenland has just drafted a new report form and a new observation sheet.*

*Re continuous and direct monitoring:*



*Section 5(1) of the Greenland Executive Order No. 1163 of 7 December 2009 on the use of means of restraint in prisons provides that an inmate under forced immobilisation must have a constant guard.*

*Normally, the constant guard stays outside the security cell in a place where he or she can observe the inmate without being visible. In the experience of the Prison and Probation Service, this is the best solution as this will often make the inmate calm down. If the constant guard deems that it would be more expedient for him or her to stay in the security cell in the specific situation, this is of course possible. It should be noted that the inmate can always call the guard.*

*Pursuant to the rules of section 12 of the Executive Order, notes on the immobilised inmate must be entered in a special observation form. Notes must be entered as needed, but at least every fifteen minutes.*

*Re the opportunity to discuss the experience:*

*On 15 May 2013, the Department of Prisons and Probation requested the Prison and Probation Service of Greenland to introduce a system which ensures that an interview with a member of staff who has knowledge and experience concerning placement in a security cell is offered to inmates who have completed a period in a security cell shortly after the end of their placement.*

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

CPT's request for information concerning paragraph 44:

- observations of the Danish authorities on independent inspections of prisons in Greenland

*Please see the comments above under paragraph 18.*

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

CPT's request for information concerning paragraph 45:

- confirmation of the adoption of the new Mental Health Act, and a copy of that Act

*The Parliament of Greenland (Inatsisartut), approved the Act in autumn 2012. A copy of the new mental Health Act is attached.*



## **Paragraph 48 in the CPT's report**

### CPT's recommendations concerning paragraph 48:

- the legislation applicable in Greenland as regards the immobilising of psychiatric patients to be reviewed as a matter of urgency. In doing so, the authorities should take into consideration the following principles and minimum standards:
  - 1) regarding their appropriate use, means of restraint should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain that risk; they should never be used as a punishment or to compensate for shortage of trained staff; further they should never be used as a precautionary measure or as a substitute for adequate medication;
  - 2) staff must be trained in the use of the equipment. Such training should not only focus on instructing staff as to how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient;
  - 3) qualified staff should be continuously present, whenever patients are subjected to mechanical restraint;
  - 4) the duration of the application of means of mechanical restraint should be for the shortest possible time (usually minutes to a few hours). Any prolongation of restraint beyond six hours should be the subject of a review by two medical doctors;
  - 5) a restraint patient should not be exposed to other patient (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient);
  - 6) once means of restraint have been removed, a debriefing of the patient should take place in order, in particular, to explain to the patient the rationale behind the measure.

*Ad 1) The Parliament Act on Detention and Other coercion in Psychiatry was adopted at the Autumn Gathering 2012 of the Parliament of Greenland. The Parliament act will hereinafter be referred to as the Mental Health Act. The new Greenlandic Mental Health Act is based on the fundamental view that the use of force must be prevented and avoided to the extent that it is at all possible. Voluntary participation is the best foundation for any treatment, and is the goal of all treatment.*

*In all treatments it should carefully be considered what measures are appropriate to enhance the possibilities of obtaining the patient's consent. There is therefore in the Mental Health Act introduced a general rule on the duty of the doctor to, on his own initiative, inform psychiatric patients about their treatment, goals and means for hospitalization and treatment in accordance with the Mental Health Act § 3, subsection 1, in conjunction with subsection 1. There is also introduced an obligation for the chief medical officer at Queen Ingrid Hospital's psychiatric department to develop a treatment plan for all psychiatric patients, whether they are detained or staying voluntarily in the hospital, in accordance with the Mental Health Act § 3, subsection 3. The treatment plan has to be established as soon as possible after admission and must be continuously adjusted in line with the needs of the patient.*

*In cases where the patient's consent is not obtained, the patient's attitude should in general be respected with the consequence that hospitalization and treatment is not begun. If the conditions for the use of coercion is present according to the Mental Health Act § 5, it must be ensured that coercion in this case is limited to an absolute necessary minimum. The rules on coercion are thus based on the smallest agent principle. In this context common rules have been introduced for all forms of coercion that there cannot be used more force than the purpose dictates, and that coercion itself must be proportionate to the aims pursued by coercion (Mental Health Act § 4).*

*As a special rule, based on the "least agent principle", rules have been introduced on mandatory review of coercion within certain intervals. This is to ensure that coercion is not used more widely than is necessary in accordance with the Mental Health Act §§ 30-31.*

*At the use of coercion the patient will have appointed a patient advisor - as a further guarantee of justice. The patient advisor is hired and paid by the judge at the Court of Greenland, and thus functions independently of the health care system's management. The patient advisor will monitor and support the patient during the entire stay / admission to the hospital, and has to, among other things, ensure that the least agent principle is followed. Furthermore, the patient advisor must ensure that coercion does not take place longer than necessary.*

*Patient advisors are hired after application by the judge at the Court of Greenland. Patient advisors are sought to be recruited from staff employed in the health care system and the social sector in the broad sense. They may however not be employed at Queen Ingrid's Hospital. Also other interested parties will be considered, for example pastors, teachers or psychologists, if they are thought to be suited for the position. When hiring, the judge should assess whether the applicant through his or her employment has an insight or experience that could be regarded as particularly relevant in relation to the performance of the duties as patient advisor.*

*The patient advisor shall, after being hired, take part in a course regarding performance of their duties. The program will primarily aim to inform patient advisors on the content of the Mental Health Act, and the duties which the law imposes on them.*

*Ad 2) Health care staff are regularly trained in conflict management and handling of coercion. In connection with the new Mental Health Act coming into effect, the relevant healthcare personnel will also be taught the content of the new Act.*

*Ad 3) It is a requirement under the new Mental Health Act § 21, that patients who are fixated shall have a permanent guard. A permanent guard is a designated caretaker, nurse or another qualified member of staff who may not have other tasks while being a permanent guard.*

*Ad 4) Forced fixation may only be used to the extent necessary to avert that a patient: 1) Exposes himself or others to imminent danger of suffering injury to body or health, 2) pursues or by other similar means seriously molest fellow patients, or 3) practices vandalism to a not insignificant extent.*

*Forced immobilization can only be applied in very limited circumstances when certain very specific criteria are met (Mental Health Act § 19). It is the chief medical officer at Queen Ingrid's Hospital's psychiatric ward / treating physician who decides on forced immobilization.*



*Before a decision on forced immobilization the relevant physician must have considered whether the use of coercion is proportionate to what is sought achieved with the immobilization. Furthermore, he must have considered whether less restrictive measures are adequate, in accordance with the Mental Health Act § 4 on the least agent principle. Use of forced immobilization, as with any other use of force, should have a compulsory protocol including the content of the treatment/coercion and its justification, in accordance with the Mental Health Act § 30, subsection 1. In addition there must be an ongoing recording and reporting of coercion to the National Health Office. The National Health Officer is completely independent of the health care system's management, and shall, based on reports, supervise the use of coercion within the health care system's hospitals, in accordance with § 30, subsection 2.*

*Recording is necessary for the individual patient's legal certainty, for example in connection with the handling of complaints. Furthermore recordings serve society's need for statistical information on the use of coercion. A central recording register of coercive measures is also one of the cornerstones of the patient's legal certainty. A recording that can form the basis for monitoring and surveillance of the area.*

*It is constantly the responsibility of the chief medical officer at Queen Ingrid's Hospital's psychiatric ward to ensure that forced immobilization is not used more widely than necessary, in accordance with the Mental Health Act § 31, subsection 1. Since patients, where forced immobilization is used, must have a permanent guard, it is also the guard's task to ensure that the immobilization extends no longer than necessary.*

*As long as a forced immobilization is maintained, there must be renewed medical assessment of the issue of the continued use of forced immobilization, as often as circumstances warrant it, but at least once a day, in accordance with the Mental Health Act § 31, subsection 5. Given that Greenland only have relatively few psychiatric patients admitted to the psychiatric ward at Queen Ingrid's Hospital, there is a more personal and close contact with each patient compared to other countries' psychiatric hospitals. The department can only hold a maximum of 12 patients. It is in this context that re-evaluation once a day has been estimated to be sufficient. As Greenland only have psychiatrists working at Queen Ingrid's Hospital's psychiatric ward, and as the number of such doctors are adapted to the extremely limited number of patients, it is not possible in Greenland to provide an independent assessment by a psychiatrist, not affiliated with the psychiatric ward at Queen Ingrid's Hospital.*

*Ad 5) Patients who are forcibly admitted to Queen Ingrid's Hospital's psychiatric department have access to a private room.*

*Ad 6) It is a requirement in the Act that the doctor regularly guides and informs the patient about the purpose of the hospitalization and the treatment, and the prospects for an improvement of the health status, in accordance with the Mental Health Act § 3, subsection 2. As the number of patients, as previously mentioned, is extremely limited in Greenland, this in itself gives healthcare professionals the opportunity to follow a patient closely. Health staff will continuously be aware of whether a patient requires in-depth conversations about treatment.*

## **Paragraph 51 in the CPT's report**

### CPT's recommendations concerning paragraph 51:

- a register of the use of electro-convulsive therapy (ECT) to be introduced.
- steps to be taken to ensure ECT is always performed with EEG monitoring.

*Yearly there are only very few patients that are treated with ECT. The health care system will make a ECT register as soon as possible. Simultaneous EEG during ECT treatment requires procuring a new ECT machine, where EEG monitoring is built in. The health care system is aware of the problem and is currently investigating the potential purchase and the costs connected with this.*

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

### CPT's recommendations concerning paragraph 54:

- steps to be taken to address the lacunae mentioned in paragraph 54 of the report, by introducing relevant legal amendments.

*According to the new Mental Health Act § 31, subsection 2, it is a legal requirement that a mandatory review takes places of the reasons for a deprivation of liberty within certain time intervals. The chief medical officer at Queen Ingrid's Hospital's psychiatric ward must respectively 3, 10, 20 and 30 days after the deprivation of liberty began, and then at least every 4 weeks as long as the detention is maintained, ensure that the conditions are still met. The result of this evaluation shall be supplied with a compulsory protocol. The compulsory protocol must continually be sent to the Chief Medical Officer, which is the independent body overseeing all use of coercion and forced immobilization. When forced immobilization is renewed, a medical assessment must be made of the issue of the continued use of forced immobilization, as often as circumstances warrant it, but at least once a day, in accordance with § 31 paragraph, subsection 5.*

*It is provided in the Mental Health Act that verification of forced immobilization at least once a day is sufficient given that there are few psychiatric patients admitted to Queen Ingrid's Hospital's psychiatric ward at the same time. This means that health professionals have a very close and immediate contact with the individual patient. The staff can thus continuously monitor changes in the patient's state of mind, and can thus continuously assess the necessity of the applied coercion. This is also in accordance with the Mental Health Act § 31, subsection 1, according to which it continually is the responsibility of the chief medical officer at Queen Ingrid's Hospital's psychiatric ward to ensure that the applied coercion does not extend longer than necessary.*

*Regarding the question of the possibility of review by an independent psychiatrist, please refer to the reply on section 48, paragraph 4.*



*Both the patient advisor and the patient will be informed about decisions regarding upholding deprivation of liberty.*

*Before deprivation of liberty or other coercive measures are taken, the patient should be informed of the proposed coercion, its specific content, context and purpose, in accordance with the Mental Health Act § 38. With any use of coercion the patient must be informed about the possibility to complain about the procedure (§ 39, subsection 1). Complaints about compulsory treatment have suspensory effect in accordance with § 39, subsection 2. Hence coercive measures cannot be executed until the complaint has been dealt with by an independent review body. The patient advisor has to, among other things, assist the patient with complaints of coercion (§ 32, subsection 2).*

*Complaints of coercion may be referred to the Psychiatric Patient Complaints Board. The Board has an attorney as chairman, and also one representative from the National Health Office and from the patient association Suqisaq (§ 41). Hospital authorities have an obligation at the request of the patient and the patient advisor to bring complaints about coercion to the Board in accordance with § 42. The Board shall decide on the issue within 14 days after the complaint has been brought forward. In cases with suspensory effect, the decision has to be made within 7 working days from the complaint is brought forward, in accordance with § 43, subsection 3.*

*The board's decision may be appealed directly to the Court of Greenland. The Board must, at the request of the patient or the patient advisor refer the matter to the Court of Greenland, in accordance with § 44. By this referral the patient is appointed an attorney.*

### **Paragraph 55 in the CPT's report**

CPT's recommendations concerning paragraph 55:

- The precepts mentioned in paragraph 55 of the report to be taken into account in the preparation of the legal amendments referred to in paragraph 54. Psychiatric patients (and if they are legally incompetent, also their guardians) should be provided with full, clear and accurate information before consenting to treatment (including on the possibility to withdraw their consent), both at the time of hospitalisation and prior to any treatment in the course of hospitalisation. Relevant information should also be provided to patients (and their guardians) during and following the treatment.

*According to the Mental Health Act § 3, subsection 1, admission, stay and treatment at health institutions must, as far as possible, take place with the patient's consent. According to § 3, subsection 2 the physician must advise the patient about the purpose of the admission, stay and treatment, as well as the prospects for an improvement of the condition. When the patient consents, it will thus be an informed consent. According to "Landstingsforordning om patienters retsstilling" (Parliament Act on Patients' Legal Rights), the patient must be advised that he may, at any time during hospitalization / treatment, withdraw his consent.*

*Further according to the Mental health Acts § 4, coercion may not be used before all has been done to achieve the patient's voluntary participation. When conditions permit, the patient must*

*have an appropriate amount of time to reflect. Coercion may thus only be used when all possibilities have been exhausted, and the coercion, which in this case is considered, must be limited to what is absolutely necessary ("the least agent principle"). To ensure compliance with this principle, all coercion is recorded and reported. Moreover, there will be a mandatory review of the continued coercion at set time periods.*

*According to § 2, subsection 1, coercion in the Act is understood as the application of measures for which there is not an informed consent. If coercion must be used, this must also be based on detailed and sharply outlined criteria.*

*According to § 5 in the Act, the involuntary or coercive detention may only occur if the patient is insane or is in a condition that is equal to that. In addition to the patient having to be insane it should also be deemed to be irresponsible not to detain the patient for treatment in relation to the prospect of cure or substantial and significant improvement in the condition otherwise being significantly less likely (the treatment indication). Another indication is that the patient poses an obvious and substantial danger to himself or others (the hazard indication). Compulsory treatment may be used only with persons who meet these conditions (§ 12, subsection 1). If the patient or the patient advisor complains about a proposed compulsory treatment, this should not be initiated until the complaint has been considered by the Psychiatric patient complaints board (§ 39, subsection 3). Prior to a decision on compulsory treatment, the patient must have adequate time for reflection, where the patient is given the opportunity to consider a possible consent to treatment (§ 12, subsection 6).*

*Forced immobilization may only be used to the extent necessary to avert that a patient exposes himself or others of imminent danger of suffering injury to body or health. In addition, there may be forced immobilization if the patient is pursuing or seriously molesting fellow patients or practicing vandalism of a significant extent (§ 19). A patient who is forcefully immobilized, must have a permanent guard (§ 21). Furthermore, there must be a mandatory review of the conditions of the immobilization at least once a day (§ 31, subsection 5).*

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

CPT's recommendations concerning paragraph 57:

- measures to be taken to ensure that patients are effectively in a position to send confidential complaints to outside authorities

*When using any form of coercion the patient should be assigned a patient advisor, in accordance with the Mental Health Act § 32, subsection 1. The patient advisor should, among other things, assist the patient with complaints (§ 32, subsection 2).*

*The patient advisor must visit the patient within 24 hours after the assignment and hereafter at least once a week and whenever necessary, see § 34, subsection 1. According to § 34, subsection 2 the patient advisor has the right to free and unfettered personal and written and telephone communication with the patient. A patient and patient advisor can complain to the Psychiatric Patient Complaints Board and the Court of Greenland. In addition complaints can be*



*made to the Parliamentary Ombudsman of Greenland. The National Health Officer must also continuously supervise the institutions where coercion is exercised based on among other things the registered coercion.*

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

#### CPT's request for information concerning paragraph 58:

- observations of the Danish authorities on independent outside monitoring of psychiatric establishments in Greenland

*According to section 17 in the Greenland Parliament Act on the Parliamentary Ombudsman of Greenland (Inatsisartut Act no. 8 of 3 December 2009) the Ombudsman is obliged to function as the National Preventive Mechanism according to the United Nation's Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Since the psychiatric system in Greenland is under the jurisdiction of the Self Government authorities, the Ombudsman is capable of visiting the psychiatric ward in the Queen Ingrid Hospital as i.a. the National Preventive Mechanism. In this capacity The Ombudsman has visited the psychiatric ward in March 2012. A report of the visit has been made. It's the intention of the Ombudsman to visit the ward at reasonable intervals.*