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Report

**to the Danish Government
on the visit to Denmark
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 3 to 12 April 2019

The Danish Government has requested the publication of this report.

Strasbourg, 7 January 2020

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EXECUTIVE SUMMARY

In the course of the 2019 visit, the delegation assessed progress in the implementation of the recommendations made by the CPT following the previous visit in 2014. It paid particular attention to the safeguards against police ill-treatment as well as to the situation in prisons and establishments for detained migrants, notably in respect of treatment, material conditions and health care. In addition, the delegation visited the Secure Department of Slagelse Psychiatric Hospital.

With one exception (a relatively short delay in access to the City Police Station in Copenhagen), the co-operation received throughout the visit was excellent at all levels. That said, the principle of co-operation also requires that the CPT's recommendations be effectively implemented in practice. In this regard, the CPT expresses its concern about the lack of progress in a number of areas, such as the legal safeguards afforded to persons detained by the police and the conditions of detention of migrants.

Police establishments

Practically all the detained persons interviewed by the CPT's delegation who had recently been in police custody said that they had been treated correctly both at the time of apprehension and during questioning. However, a few isolated allegations were heard of excessive use of force and of threatening behaviour by police officers at the time of apprehension. The Danish authorities are therefore asked to remind police officers that any form of ill-treatment, including threatening behaviour, of persons deprived of their liberty is unacceptable.

The Committee welcomes the fact that police officers now wear individual identification numbers when on duty. This is clearly an important step to enhance the accountability and professionalism of the police and combat impunity.

Regrettably, no other substantial improvements have been made since the CPT's 2014 visit to strengthen the safeguards afforded to persons deprived of their liberty by the police. Consequently, the Committee must reiterate its recommendations made in this regard, notably as concerns the right of all detained persons (including persons detained under the Aliens Act) to be granted effective access to a lawyer as from the very outset of their deprivation of liberty. The Committee also recommends that, given their particular vulnerability, juveniles deprived of their liberty by the police should never be subjected to police questioning or be requested to make any statement or to sign any document concerning the offence(s) they are suspected of having committed without the presence of a lawyer and, in principle, a trusted adult.

In addition, detained persons should be provided with clear information in a language they can understand about their rights in police custody.

Material conditions in the police stations visited were generally satisfactory for short periods of detention.

Prison establishments

The CPT's delegation visited Storstrøm Prison for the first time. It also carried out follow-up visits to Odense Remand Prison, Blegdamsvejens Remand Prison and the Copenhagen Police Headquarters Prison.

The Committee was informed that the Danish prison system was facing high occupancy levels and operating slightly over 100% capacity. In this regard, it is a matter of concern that measures taken to address overcrowding consist mainly of opening new prison places. The CPT recommends that the Danish authorities take the necessary steps to ensure that all prisons operate within their official capacities. Further, efforts to manage the prison population should be pursued; in this context, a coherent strategy covering both admission to and release from prison should be drawn up, to ensure that imprisonment really is the measure of last resort.

In the prisons visited, the delegation observed that staff behaved generally respectfully, and many prisoners spoke positively about the staff. However, it received one allegation of physical ill-treatment by a prison officer at the Copenhagen Police Headquarters Prison. It also heard a few allegations of excessive use of force by prison staff and prison transport officers, and of verbal abuse by prison staff.

The information gathered during the visit suggests that inter-prisoner violence did not constitute a major problem in the prisons visited.

The Committee very much welcomes the continued downward trend in court-ordered isolation of remand prisoners in the interests of the investigation. As for the practice of judicial restrictions on remand prisoners' contacts with the outside world, the Committee recommends that the safeguards surrounding the application of this measure be reinforced. In this context, it recalls that the guiding principle should be to promote these contacts (via visits, telephone calls and correspondence) as often as possible.

The material conditions of detention in the prisons visited were generally satisfactory, and even excellent at Storstrøm Prison. However, many complaints were received from prisoners concerning access to the toilet (both during the day and at night) at the Copenhagen Police Headquarters Prison and at Odense Remand Prison. As regards activities, the Committee recommends that, at Storstrøm Prison, measures be taken to offer prisoners under the maximum security regime structured programmes of constructive activities, preferably outside the cells, based on individual projects intended to provide prisoners with appropriate mental and physical stimulation. Further, it encourages the management -in all the prisons visited- to pursue their efforts to offer all remand prisoners, in particular those detained for longer periods of time, access to purposeful out-of-cell activities for a reasonable part of the day.

Concerning health care, recommendations are made regarding medical staffing levels at Storstrøm Prison, and Odense and Blegdamsvejens Remand Prisons, as well as the nursing staff resources in all the prisons visited.

Further, the Committee is concerned that, despite its reiterated recommendations, there was still no systematic and prompt medical screening of newly-arrived prisoners in the prisons visited, nor was there a proper recording and reporting system for injuries recorded by doctors (vis-à-vis newly admitted prisoners or following a violent episode in prison). In addition, medical confidentiality needs to be strengthened and additional action taken to tackle substance use in prisons.

The findings of the 2019 visit concerning prison health-care services in Denmark suggest that a much closer involvement of the Ministry of Health is required. At the very least, co-ordination between the Danish Ministries of Justice and Health (at both the senior and the operational levels) and specific protocols for the provision of primary and specialist health care in prisons, reflecting the particular health-care needs of the prisoner population, should be developed.

The findings of the 2019 visit also reveal that staff shortages represent one of the major challenges facing the Danish prison system, and the Committee recommends that the authorities persevere in their efforts to recruit prison staff and improve staffing levels in the prisons visited (as well as, where applicable, in other prisons).

Concerning discipline, the Committee calls upon the Danish authorities to revise the legal provisions to bring them into line with the CPT's requirements (i.e. that solitary confinement as a disciplinary punishment should not exceed 14 days for adult prisoners and should be abolished in respect of juveniles).

As regards security-related issues, the Committee reiterates its recommendation that the use of observation cells, both for prisoners at risk of suicide or self-harm and for prisoners who are disruptive or violent, be reviewed. Further, the Committee remains critical of the application of the measure of fixation (immobilisation) in prisons and recommends that the authorities put an end to this practice in prisons for security reasons.

In the report, remarks and recommendations are also made concerning various other issues, notably prisoners' contact with the outside world, information provided to prisoners and possibilities for prisoners to lodge complaints.

Foreign nationals held under aliens legislation

The delegation visited Nykøbing Falster Holding Centre for the first time and carried out a follow-up visit to the Ellebæk Centre for Foreigners.

The CPT considers it unacceptable that the living conditions in both migration detention centres were prison-like and that the prison rules applied to all detained migrants. It emphasises that migration detainees are generally neither suspected nor have they been convicted of a criminal offence. If their detention is nevertheless considered necessary, they should be held under conditions promoting a sense of normality and with minimum internal security restrictions. The Committee therefore calls upon the Danish authorities to launch a major refurbishment programme at both establishments or take them out of service and replace them with facilities appropriate for the administrative detention of migrants. The CPT asks the Danish authorities to be informed, within three months, of their intentions in this regard.

As a positive development, in comparison to the situation found in 2014, the report notes that, according to a new policy, the administrative detention of children or juveniles who were migrants, was resorted to only in very exceptional cases.

At *Ellebæk Centre for Foreigners*, the delegation received one allegation of excessive use of force and several allegations of verbal abuse by staff, including racist remarks. It requests the authorities to be informed about the outcome of the respective investigations.

Access to the open air was very restricted, in particular for female migrants at *Ellebæk Centre for Foreigners*, who could only go outside for about 30 minutes per day. Furthermore, other activities were very limited and detained migrants had neither access to their mobile phones nor to basic internet services. The CPT reiterates its view that it sees no reason why detained migrants should not have regular access to their mobile phones (for instance in a dedicated room).

The Committee remains critical of the use of fellow detainees or custodial staff as interpreters, including during medical examinations, and hence recommends the increased use of professional interpretation services.

The report further makes several recommendations to improve the health-care services at both centres, such as the increased presence of health-care staff and the introduction of comprehensive and systematic medical admission screening. It is also critical of the absence of a procedure for reporting allegations of ill-treatment to the relevant authorities and recommends that, as a rule, prescribed medicines are only prepared and distributed by health-care staff.

Concerning staff in general, the CPT is concerned that the custodial officers working at both establishments were regular prison staff who had generally not received any special training for working with detained migrants. It further urges the Danish authorities to redouble their efforts to fill the vacant custodial staff posts at *Ellebæk Centre for Foreigners*.

A number of recommendations are made concerning disciplinary solitary confinement and placement of detained migrants in observation rooms at *Ellebæk Centre for Foreigners*. In particular, the Committee expresses its serious misgivings that the application of the prison rules led to a situation where detained migrants who were found in possession of a mobile phone had to be punished by law with at least 15 days of solitary confinement. This demonstrates once again that the application of the strict prison rules is not appropriate for persons held in administrative detention.

The CPT further reiterates that any person placed in either disciplinary solitary confinement or in an observation room should be visited by health-care staff immediately after his/her placement and thereafter at regular intervals, which was usually not the case. Moreover, due to the lack of rip-proof clothing, detained migrants at risk of suicide were sometimes placed entirely naked in an observation room. The CPT considers that such a practice could amount to degrading treatment.

Psychiatric institutions

The CPT welcomes the fact that, on a nationwide level, instances of belt restraint (fixation) and prolonged belt restraint in particular have been significantly reduced in recent years. However, it remains seriously concerned that many psychiatric patients have still been fixated for days on end (including at the Secure Department of Slagelse Psychiatric Hospital), a practice which in the Committee's view cannot have any justification and may amount to ill-treatment. Moreover, it is completely unacceptable that two patients were apparently fixated for 10 and 13 months respectively while waiting for a place at the Secure Department of Slagelse Psychiatric Hospital.

At the *Secure Department of Slagelse Psychiatric Hospital*, the material conditions were excellent and could serve as a model for other secure psychiatric establishments. It is particularly positive that the establishment had several outdoor yards to which most patients had frequent access during the day.

The report further notes that staffing levels in the department had been raised considerably and were appropriate for the care its 30 patients required. Moreover, all staff underwent obligatory de-escalation training eight times a year. This is commendable. Also the treatment of patients appeared to be professional and caring and the activities for patients had considerably improved as compared to the situation in 2014.

The special restraint measure of “walking restraint” (which can be employed exclusively at the Secure Department of Slagelse Psychiatric Hospital) was at the time of the visit regularly applied to five patients. In order to strengthen the safeguards against any undue use of the measure, the CPT recommends that a weekly review of its necessity by an independent psychiatrist be re-introduced.

As regards locking of patients in their rooms, the Committee recognises that the persons concerned now generally had access to outdoor yards several times a day. Nevertheless, it emphasises once again that excluding patients from association, in particular over long periods, is likely to have a detrimental effect on their mental health.

Upon their admission to the Department, patients were usually held in seclusion in a “zero-stimuli room” for up to five days. The Committee acknowledges the fact that the department accommodates a very specific patient population, many of whom display particularly challenging behaviour. It nevertheless has serious doubts as to whether seclusion of patients for several days is justifiable. The CPT further recommends that every patient held in seclusion be under continuous direct personal supervision from the very outset of the measure.

It is positive that such supervision was provided for all patients who were subject to mechanical restraint. However, as had already been criticised by the CPT in 2014, the law still provides that in the case of disagreement between the treating doctor and the second psychiatrist (from outside the department) as to the need for continuing the restraint, the treating doctor’s opinion always prevails. Such a disagreement is a serious matter and should lead to an automatic referral to an independent third authority for a decision.

The CPT further recommends that a restraint register be established at the department.

The delegation also paid a short, targeted visit to two of the *civil psychiatric wards of the Slagelse Psychiatric Hospital* in order to examine the legal procedures and safeguards in the context of involuntary hospitalisation of psychiatric patients. In this context, a number of recommendations are made to strengthen the safeguards surrounding involuntary hospitalisation, such as introducing regular external *ex officio* reviews of involuntary hospitalisation decisions by an independent authority, preferably a court.

The Committee is also critical of the fact that voluntary patients in the civil psychiatric wards of the Slagelse Psychiatric Hospital had been subject to belt restraint for at least two hours without the involuntary placement procedure being initiated. The CPT reiterates its recommendation that if the application of restraint on a voluntary patient is deemed necessary, the legal status of the patient as “voluntary” should be immediately reviewed.

The Committee further recommends that involuntary treatment decisions require the opinion of a psychiatrist not involved in the patient’s treatment in any case where the patient him/herself does not agree with the treatment proposed.

It is positively noted that patients could generally lodge complaints against the application of any coercive measure (including involuntary hospitalisation and treatment) to the Patients Complaints Board which decided upon complaints within one week at the latest and had the power to overrule the hospital's decisions.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Denmark from 3 to 12 April 2019. The visit formed part of the CPT’s programme of periodic visits for 2019 and was the Committee’s seventh visit to Denmark.¹

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

- Hans Wolff, Head of the delegation
- Vincent Delbos
- Gergely Fliegau
- Per Granström
- Jari Pirjola
- Chila van der Bas.

They were supported by Muriel Iseli and Almut Schröder of the CPT’s Secretariat, and assisted by:

- Pétur Hauksson, psychiatrist, former Head of the Psychiatric Department at Reykjalundur Rehabilitation Centre, Iceland (expert)
- Mette Aarslew-Jensen (interpreter)
- Farida Abu-Bakr Christensen (interpreter)
- Jørgen Engraf (interpreter)
- Heidi Flegal (interpreter)
- Jan Als Johansen (interpreter)
- Annette Lassen (interpreter).

3. The list of the establishments visited by the CPT’s delegation can be found in Appendix I.

¹ The CPT has previously carried out five periodic visits (in 1990, 1996, 2002, 2008 and 2014) and one ad hoc visit (in 2012) to Denmark. The reports on these visits and the responses of the Danish authorities are available on the CPT’s website: <https://www.coe.int/en/web/cpt/denmark>.

4. The report on the visit was adopted by the CPT at its 100th meeting, held from 4 to 8 November 2019, and transmitted to the Danish authorities on 28 November 2019. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Danish authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information. As regards the request for information in paragraph 117, the Committee wishes to receive a response within three months.

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

5. In the course of the visit, the delegation had consultations with Hanne Stig Andersen, Deputy Permanent Secretary at the Ministry of Immigration and Integration, Dorthe Eberhardt Søndergaard, Deputy Permanent Secretary at the Ministry of Health, and Lykke Sørensen, Centre Director at the Ministry of Justice's Prison and Probation Service, as well as with other senior officials from the aforementioned ministries.

Further, the delegation held talks with Charlotte Storgaard, Director of the Danish Independent Police Complaints Authority, and with representatives from the Parliamentary Ombudsman in their capacity as the Danish National Preventive Mechanism (NPM). It also met representatives of the civil society and organisations active in areas of concern to the CPT.

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

6. With one exception, the co-operation received throughout the visit was excellent at all levels. The delegation enjoyed rapid access to the establishments visited (including those which had not been notified in advance), was promptly provided with all the requested information and documents (including medical files) and was able to speak in private with all the persons deprived of their liberty it wished to interview. The support provided before and during the visit by the CPT's liaison officer, Jens Thule Jensen, from the Ministry of Foreign Affairs, was very much appreciated.

The exception concerns the City Police Station in Copenhagen, where the delegation was obliged to wait for some 35 minutes before being granted access to the premises, on the evening of 9 April. It appeared that the establishment's management was not aware of the CPT's mandate and powers, and did not allow the delegation to enter before inquiring with the Ministry of Foreign Affairs and obtaining clearance. The Committee wishes to stress the need to provide such information to all places of deprivation of liberty, in advance of the CPT's visit.

7. Further, the Committee wishes to stress that the principle of co-operation set out in Article 3 of the Convention is not limited to facilitating the work of visiting delegations; it also requires that recommendations made by the Committee are effectively implemented in practice. In this respect, the Committee is concerned by the lack of progress since the 2014 visit in a number of areas, in particular as regards the legal safeguards afforded to persons detained by the police and the conditions of detention of detained migrants.

C. National Preventive Mechanism

8. The Optional Protocol to the United Nations Convention against Torture (OPCAT) was ratified by Denmark in 2004. Following the ratification of the OPCAT by the Danish Parliament, the Danish Parliamentary Ombudsman was designated as the National Preventive Mechanism (NPM) in 2007. Two years later, the Parliamentary Ombudsman concluded agreements with both the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture, aimed at strengthening the Ombudsman’s monitoring activities by involving civil society organisations. The Parliamentary Ombudsman’s budget was increased to cover its NPM activities and DIGNITY was provided with specific funding for the medical expertise it provides for monitoring visits. Ten staff members at the Ombudsman’s Office and one staff member at both the Danish Institute for Human Rights and at DIGNITY are appointed to carry out the NPM’s core work under the co-ordination of the Parliamentary Ombudsman’s Office. The management from the three institutions meet regularly to discuss and plan the overall guidelines for the work.

The NPM continues to take a thematic approach to its monitoring activities. They focused on the social psychiatric sector and the detention of young persons in 2017, and on recourse to segregation in prisons and the use of force against children in asylum centres in 2018.

About 40 to 50 (mainly targeted) monitoring visits are carried out per year, including on an unannounced basis, to various public and private institutions where adults or children may be deprived of their liberty. After each visit, the NPM raises their concerns directly with the management of the visited institution orally and in the form of a letter which usually contains concrete recommendations. In the case of more serious findings, the Ombudsman presents the matter to the relevant authorities and may issue written criticism and recommendations in this context. Occasionally, a comprehensive report on the visit to a particular institution is drafted. The outcomes of all monitoring visits are summarised in annual reports. Furthermore, monitoring visits may prompt the Ombudsman to open investigations of general problems.

The NPM has recently started publishing the above-mentioned letters to the visited establishments on the Ombudsman’s website. This is a welcome development.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

9. At the time of the visit, the general legal framework governing police custody was by and large the same as the one which had been summarised in the CPT's 2014 visit report.²

It is recalled that a person suspected of having committed a criminal offence can be held by the police on their own authority for up to 24 hours. Within that period, the person must be released or brought before a judge, who may extend police custody for a further 72 hours.³ Thus, a criminal suspect may remain in police custody for up to four days.

It is also recalled that, pursuant to the Police Act, the police may administratively detain a person who endangers public order, the safety of individuals or public security, for a period not exceeding six hours or, in the context of public gatherings and crowds, twelve hours.⁴ In addition, the police may hold a person due to illness or other incapacity (e.g. drunkenness, intoxication); in such cases, the deprivation of liberty must be as brief as possible.⁵

Further, under the Aliens Act, foreign nationals may be detained by the police for a maximum of three days, for a number of reasons, in particular to ensure their removal or to guarantee the completion of proceedings concerning their stay in the country.⁶

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

2. Ill-treatment

10. The CPT's delegation received no allegations – and found no other evidence – of physical ill-treatment of persons detained by the police. Practically all the detained persons interviewed by the delegation who had recently been in police custody said that they had been treated correctly both at the time of apprehension and during questioning.

² CTP/Inf (2014) 25, paragraph 8.

³ Article 71 (3) of the Danish Constitution and Section 760 of the Administration of Justice Act (*Bekendtgørelse af lov om rettens pleje*, LBK No. 938 of 10 September 2019).

⁴ Sections 5 (3), 8 (4) and 9 (3) of the Police Act (*Bekendtgørelse af lov om politiets virksomhed*, LBK No. 956 of 20 August 2015).

⁵ Section 10 of the Police Act.

⁶ Sections 35 to 37 of the Aliens Act, and paragraph 109 of this report.

However, a few isolated allegations were heard of excessive use of force (e.g. the person having been violently pushed to the ground or tightly handcuffed) and of threatening behaviour (e.g. a firearm pointed at the head of the person) by police officers at the time of apprehension, in some cases after the person concerned had been brought under control. One person also complained of verbal abuse.

The CPT recommends that law enforcement officials be reminded, regularly and in an appropriate manner, that any form of ill-treatment, including verbal abuse and threatening behaviour, of persons deprived of their liberty is unacceptable and will be punished accordingly.

Further, the CPT trusts that the Danish authorities will continue to remind police officers that they should use no more force than is strictly necessary when carrying out an apprehension and that where it is deemed necessary to handcuff a person, the handcuffs are never excessively tight and are applied only for as long as is strictly necessary.

11. The delegation has been informed of a death in police custody in Denmark which had occurred in November 2018. By letter of 27 August 2019, the Danish authorities indicated that the investigation initiated by the Independent Police Complaints Authority following this death had not yet been completed. **The Committee would like to be informed, in due time, of the outcome of the aforementioned investigation.**

12. The Committee is pleased to note that following the recommendation made in its report on the 2014 visit, measures have been taken by the Danish authorities to introduce individual identification of police officers when on duty. As a result, Danish police officers have been wearing identification numbers on their uniforms since the beginning of 2016. This is clearly an important step to combat impunity and enhance the accountability and professionalism of the police.

However, one detained person met by the delegation alleged that he had been apprehended at the beginning of April 2019 in Odense by a “special unit” whose members were wearing black hoods and had no identification numbers. **The CPT would like to receive detailed information about the regulations in force on police identification (including possible exceptions).**

3. Safeguards against ill-treatment

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

14. It should be stated from the outset that, regrettably, no substantial improvements have been made since the 2014 visit to strengthen safeguards against police ill-treatment.

a. notification of custody

15. Despite the recommendation made by the CPT in the report on its 2014 visit, no measures have been taken to better circumscribe the power of the police to postpone, for investigation purposes, the right to inform a relative or a third person. Section 2 of the Ministry of Justice Circular Letter No. 9155 of 18 March 2010 (hereinafter Circular Letter of 18 March 2010) has remained unchanged.⁷

The Committee acknowledges that the exercise of the right of notification may be subject to certain exceptions intended to protect the legitimate interests of the police investigation. However, such exceptions should be clearly defined in law and strictly limited in time, and resort to them should be accompanied by appropriate safeguards (for example, any delay in notification of custody should require the approval of a senior police officer unconnected with the case or a prosecutor) – which is not provided for in the Circular Letter of 18 March 2010. **The CPT reiterates its recommendation that the necessary measures be taken to ensure that the possibility of exceptionally delaying the exercise of the detained persons' right to inform a relative (or a third person of their choice) of their apprehension satisfies the aforementioned requirements.**

16. As in 2014, several persons who had recently been detained by the police (including persons detained under aliens legislation) complained that they had not been given the opportunity or permitted to contact their relatives or a third person to inform them of their apprehension, as from the very outset of deprivation of liberty. A number of those persons were foreign nationals with no relatives residing in Denmark. Further, when notification was carried out by the police, the detained persons concerned were not systematically provided with feedback on the outcome of the notification.⁸ It was not possible to verify from the paper detention reports (*detentionsrapport*) and arrest sheets (*anholdelsesblad*) whether notification of custody had taken place.

The CPT reiterates its recommendation that the Danish authorities ensure that all persons detained by the police – including those whose family members reside outside Denmark – are able, in practice, to enjoy the right to inform a relative or a third party of their choice of their situation, as from the very outset of their deprivation of liberty.

Further, such notification should be properly recorded (including a reference to the time of notification, the causes of any delays and the identity of the person notified), and detained persons should be provided with feedback on whether a member of their family or third person had been contacted.

⁷ Section 2 provides that all persons detained by the police have the right to inform without undue delay relatives or other relevant persons (e.g. the employer) of their arrest. However, this right can be delayed or denied if, due to the specific circumstances of the case, information about the arrest may in itself compromise the investigation. When a detained person is denied the right to notify relatives or other relevant persons, notification will be provided by the police (if the detained person so wishes) unless there are specific reasons to assume that information about the arrest may in itself obstruct the investigation and crucial considerations relating to the investigation justify the absence of such notification. The decision to delay or deny the detained person his/her right to inform, or to have his/her relatives or other persons informed of the arrest, is taken by the officer on duty or the officer in charge of the investigation; it must be recorded in the detention report or protocol with the reasons therefor. Further, when the police decide to notify the relatives on behalf of the detained person, they must provide him/her with feed-back on the outcome of the notification.

⁸ By way of example: two detained persons who had been apprehended on 26 March and 5 April 2019 said to the CPT's delegation, on 10 April and 8 April 2019 respectively, that they did not know whether their relatives had been informed of their apprehension and detention.

17. One detained foreign national complained to the CPT's delegation that he had requested the police to inform the Embassy of his home country, but that no such contact had been made.⁹ **The CPT trusts that the Danish authorities will take appropriate steps to prevent such cases from occurring in the future.**

b. access to a lawyer

18. The Administration of Justice Act provides for the right of access to a lawyer upon deprivation of liberty by the police. This right, which includes the right to have a lawyer present during questioning and to consult with a lawyer in private, is in principle granted as soon as a detained person arrives at a police station.¹⁰

That said, it emerged once again from the delegation's findings that a number of detained persons had not been informed of their right of access to a lawyer or that their requests to contact a lawyer and have him/her present during police questioning had been ignored. In addition, several detained persons complained that the first time they had met a lawyer was in court, a few minutes before the application of the measure of remand custody was being decided. Moreover, detained persons' requests to see a lawyer and the action taken by the police in response to such requests were not systematically recorded.

As regards in particular persons detained under the Aliens Act, the delegation interviewed a number of persons who had been detained in accordance with Section 37 of that Act (i.e. under the sole authority of the police for up to 72 hours) and who complained that they had not been placed in a position to consult a lawyer.

The CPT reiterates its recommendation that the Danish authorities take the necessary steps, including at legislative level, to ensure that the right of all detained persons (including persons detained under the Aliens Act) to have access to a lawyer is formally guaranteed and fully effective in practice as from the very outset of their deprivation of liberty.

Further, a record should be maintained of any request by a detained person to see a lawyer and whether such a request was granted. The waiver of the right to legal assistance should be systematically signed by the detained person if he/she does not wish to exercise his/her right of access to a lawyer.

⁹ Contrary to applicable laws and regulations.

¹⁰ Sections 730 and 745c of the Administration of Justice Act; see also Section 3 of the Ministry of Justice Circular Letter No. 9155 of 18 March 2010.

c. access to a doctor

19. Section 4 of the Circular Letter of 18 March 2010 provides that all persons detained by the police must receive medical attention and care if needed; in such cases, the police shall take the necessary measures (call for a doctor, transfer the person to a hospital, etc.) without undue delay. Section 4 also provides that persons detained by the police are entitled to request to be seen by a doctor and can in principle receive visits by doctors of their own choice. The 2019 visit did not bring to light any particular problems in the exercise of this right.

20. Despite the recommendation made by the CPT after its 2014 visit, no proper recording and reporting system for injuries recorded by doctors of persons in police custody had been put in place. This is not in line with established international standards.¹¹

The CPT reiterates its recommendation that the Danish authorities take the necessary steps – including by amending the relevant legislation and regulations – to ensure that:

- **the records drawn up following the medical examination of persons detained by the police contain: (i) a full account of objective medical findings based on a thorough examination (supported by a “body chart” for marking traumatic injuries and, preferably, photographs of injuries), (ii) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional’s observations in the light of (i) and (ii), indicating the consistency between any allegations/statements made and the objective medical findings;**
- **the records also contain the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;**
- **the results of every examination, including the above-mentioned statements and the health-care professional’s conclusions, are made available to the detained person and his/her lawyer;**
- **whenever injuries are recorded which are consistent with allegations of ill-treatment made by a person in police custody (or which are indicative of ill-treatment, even where no allegations are made), the record is systematically brought to the attention of the Independent Police Complaints Authority, regardless of the wishes of the person concerned. Police officers should advise detained persons of the existence of the reporting obligation and also that the forwarding of the report to the Independent Police Complaints Authority is not a substitute for the lodging of a complaint in a proper form.**

¹¹ Paragraph 122 and Annexe IV of the “Istanbul Protocol”, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

d. information on rights

21. According to Section 1 of the Circular Letter of 18 March 2010, persons detained by the police must be informed of their rights in a language they understand. To this end, the Danish National Police have issued an information sheet (in many languages¹²) which must be given to detained persons (in addition to the information provided orally). If a detained person does not understand any of the languages in which the information sheet is available, the police must ensure that the information on his/her rights is given without undue delay in another way, possibly with the assistance of an interpreter. Observance of these requirements must be recorded,¹³ e.g. in the detention report.

In the course of the visit, a number of detained persons with whom the CPT's delegation met stated that they had not been informed, or not been fully informed, of their rights; at least one person¹⁴ had not understood the information provided because of the lack of appropriate translation/interpretation. It appeared that the information sheet ("Guidelines for persons under arrest") was not systematically given to every person detained by the police. The detention reports and arrest sheets consulted in the three police establishments visited did not allow the delegation to ascertain whether all the detained persons had been fully informed of their rights because those documents contained insufficient information in this regard (i.e. they contained only a section on the right to inform one's relatives or employer).

The CPT reiterates its recommendation that steps be taken to ensure that all persons detained by the police – for whatever reason – are systematically informed of their rights, orally at the time of deprivation of liberty and through the provision of an information sheet, in a language they can understand, upon their arrival at police premises.

Steps should also be taken to ensure that the fact that persons detained by the police have been provided with information on all their rights (not only the right to inform one's relatives or employer) be recorded; detained persons should be asked to certify with their signature that such information has been provided (and in which language) and, if necessary, the absence of a signature in a given case should be explained.

22. In the Committee's view, all persons deprived of their liberty by the police should be informed in writing about their right to make a complaint against the police. This can have a significant preventive or deterrent effect as regards ill-treatment and provide management with feedback on potential problems. **It would be desirable that information about the possibility to lodge a complaint with the Danish Independent Police Complaints Authority be included in the information sheet.**

¹² E.g. Danish, Arabic, Bulgarian, English, French, German, Lithuanian, Polish, Romanian, Somali, Spanish and Turkish.

¹³ The elements to be recorded also include: 1) how the information on rights is given if the information sheet cannot be provided in Danish and 2) which steps have been undertaken by the police to provide the information on rights (*inter alia*, steps undertaken to find an interpreter) in the event that the apprehended persons must be released before it is possible to inform them of their rights in a language they understand.

¹⁴ A person from Somalia with a very poor command of Danish and English.

e. juveniles

23. Danish legislation makes special provision for juveniles apprehended in relation to a criminal offence. In particular, the police must in principle notify without undue delay the social services and a holder of parental authority. In addition, a representative of the social services must “as far as possible” be present during police questioning.¹⁵ The right of access to a lawyer is guaranteed. However, the presence of a lawyer during questioning is compulsory only in certain cases.

The information gathered during the visit suggests that the local social services are informed promptly following the apprehension of a juvenile and are present during police questioning. However, lawyers are not systematically contacted, and are not systematically present during police questioning.

Given their particular vulnerability, the Committee considers that the appointment of a defence lawyer should be mandatory for juveniles held in police custody. **The CPT recommends that measures be taken to ensure that juveniles deprived of their liberty by the police are never subjected to police questioning or requested to make any statement or to sign any document concerning the offence(s) they are suspected of having committed without the presence of a lawyer and, in principle, a trusted adult. The relevant legal provisions should be amended accordingly.**

f. police questioning

24. The Committee is concerned by allegations which its delegation received during the visit from a number of detained persons who said that they had been subjected to informal questioning (or attempts to do so) by the police right after their apprehension, while being transported to a police station.

If proven true, such practices are unacceptable. Persons under arrest should never be questioned by the police without benefiting from the safeguards provided for by law, in particular the right of access to a lawyer. **The Committee would like to receive the Danish authorities’ comments on this matter.**

25. The CPT wishes to recall that, for the prevention of physical and psychological ill-treatment of criminal suspects, it is essential that police interviews are always carried out in a professional and non-coercive manner. In this context, it had recommended – since its very first visit to Denmark in 1990 – that the Danish authorities develop clear rules or guidelines on how interviews with suspects should be carried out.¹⁶

¹⁵ The presence of a holder of parental authority is not compulsory during police questioning; it is decided upon by the police.

¹⁶ CPT/Inf (91) 12, paragraph 130.

In its 28th General Report, the Committee has outlined the added value of the methodology of investigative interviewing. The aim of such interviews must be to obtain accurate and reliable information in order to seek the truth about matters under investigation and not to obtain a confession from a person already presumed, in the eyes of the interviewing officers, to be guilty.¹⁷ **The Committee would like to know whether the Danish authorities are considering introducing the methodology of investigative interviewing within the national police.**

4. Conditions of detention

26. The material conditions in the three police establishments visited were, on the whole, satisfactory for short periods of detention. The detention cells (for persons “not able to take care of themselves”, usually intoxicated persons) and the holding cells (for criminal suspects and foreign nationals detained under aliens legislation) were designed for single-occupancy use and measured between approximately 6m² and 9m² – with the exception of a few holding cells in Nykøbing Falster Police Station and Odense Police Headquarters which were smaller (between approximately 5m² and 5.5m²). All cells were clean and in a good state of repair.

The main deficiencies observed were a lack of access to natural light and insufficient artificial lighting in the cells. In addition, ventilation was poor in the cells of Nykøbing Falster Police Station.

In their response to the report on the 2014 visit, the Danish authorities had indicated that detention and holding cells were designed pursuant to guidelines issued by the Ministry of Justice in 1992, according to which “access to daylight is not required in holding cells”; further, those guidelines do not require artificial lighting to be “sufficient to read by”.

The CPT once again recommends that measures be taken to ensure that all police cells have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation. If necessary, regulations and guidelines should be amended accordingly.

Further, **the CPT recalls that police cells should preferably enjoy access to natural light. This requirement should already be borne in mind at the design stage of any police premises to be constructed or redesigned.**

The CPT also wishes to recall that cells of about 5m² in size are scarcely suitable for periods of custody lasting more than a few hours.

27. The delegation received complaints from persons recently detained in police stations who had not been offered anything to eat or drink despite having been held for several hours. In their response to the report on the 2014 visit, the Danish authorities had indicated that the provision of meals to detained persons was decided locally, in the police districts. **The CPT recommends that all persons and officers in charge of a police district and of a police establishment be reminded that all detained persons must have ready access to drinking water and be offered something to eat at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day.**

¹⁷ CPT/Inf (2019) 9, paragraphs 73 to 81; and Council of Europe, [A brief introduction to investigative interviewing – A practitioner’s guide](#), October 2018.

B. Prison establishments

1. Preliminary remarks

28. At the outset of the visit, the CPT's delegation was informed by senior officials from the Ministry of Justice that the Danish prison system was facing high occupancy levels and operating slightly over 100% capacity. On 1 January 2019, there were 3,879 prisoners for an overall capacity of 3,865 active places. The total prison population had been decreasing during the period 2014-2016 (from approximately 3,800 to 3,400 prisoners). However, this downward trend was reversed in the autumn of 2017 as a result of the governmental policy and the aim, reflected in the multi-year agreement,¹⁸ to increase the prisons' occupancy levels so that the prisons would be operating at 96-97% capacity. In light of recent figures concerning the police and court activities,¹⁹ it was expected that the total prison population would further increase to over 4,000 prisoners at the end of 2019.

The CPT wishes to stress that a prison cannot function effectively if it is operating at 100% of its capacity. There must always be some margin for transferring incompatible prisoners from one wing to another or for receiving additional prisoners or for taking back prisoners on temporary release. The Council of Europe's *White Paper on Prison Overcrowding* states that "if a given prison is filled at more than 90% of its capacity this is an indicator of imminent prison overcrowding. This is a high risk situation and the authorities should feel concerned and should take measures to avoid further congestion."²⁰ **The CPT recommends that the Danish authorities take this precept into account when looking at projections for the prison population in the future.**

29. Measures taken by the Danish Prison and Probation Service to meet the increase in the prison population levels consisted mainly of opening new prison places (250 in 2018, and 200-230 expected in 2019). In addition, the staff duties had been reviewed with the result that prison guards were now tasked with guarding functions only (and no longer administrative functions). However, recourse to alternatives to detention had decreased significantly since 2014.²¹

The CPT considers it unlikely that providing additional accommodation will, in itself, provide a lasting solution to the problem of overcrowding. Indeed, a number of European States have embarked on programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, in those countries which enjoy relatively uncrowded prison systems, the existence of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level.

¹⁸ Since 1999, the Danish Prison and Probation Service has been subject to political multi-year agreements (running for four or five years) which describe the financial framework and the operational and development targets to be achieved during the contractual period.

¹⁹ These figures indicate, *inter alia*, that the number of criminal cases investigated by the police and the number of prison sentences (for serious crimes) imposed by the courts are on the rise.

²⁰ See paragraph 20 of the [White Paper on Prison Overcrowding](#), CM(2016)121-add3, 23 August 2016.

²¹ By way of example, 3,592 probation requests had been granted in 2014 as compared with 2,434 in 2018, and there had been 2,872 measures of home confinement with electronic monitoring (ankle monitors) in 2014 as compared with 2,216 in 2018.

Tackling prison overcrowding requires analysing the root causes driving overcrowding. In this respect, the Committee notes that while the overall prison population of 69 per 100,000 inhabitants (on 1 January 2019) compares favourably with other European countries, the number of prisoners on remand is, at 40.5%, comparatively high and indicates a likely overuse of pre-trial detention in Denmark.²² It also requires drawing up a coherent strategy covering both admission to and release from prison, to ensure that imprisonment really is the measure of last resort. Emphasis should be placed on the full range of non-custodial measures capable of providing judicial supervision during the period preceding the imposition of a sentence, as well as on measures to accelerate a prisoner's release, including through supervisory means tailored, *inter alia*, to the prisoner's personality and the nature of the sentence.

The CPT recommends that the Danish authorities take the necessary measures to ensure that all prisons operate within their official capacities. Further, efforts to manage the prison population should be pursued, taking due account of the full set of principles listed in the Council of Europe Committee of Ministers Recommendation No. R(99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Recommendation Rec(2003)22 on conditional release (parole), Recommendation CM/Rec(2010)1 on the Council of Europe probation rules and Recommendation CM/Rec(2017)3 on the European Rules on community sanctions and measures.

30. In the course of the 2019 visit, the CPT's delegation visited for the first time Storstrøm Prison. It also carried out follow-up visits to Odense Remand Prison, Blegdamsvejens Remand Prison and Copenhagen Police Headquarters Prison.²³

Storstrøm Prison is a newly constructed establishment which entered into service at the end of 2017. Located in the countryside some 20 kilometres north of the town of Nykøbing Falster, it is part of a long-term plan to modernise and improve the Danish Prison and Probation Service's older, outdated buildings. The establishment's design was based on the idea to build a "village prison", with low-rise buildings toning down the institutional impression and a lot of space and facilities for prisoners within a highly secured perimeter. With an official capacity of 250 places, for sentenced prisoners, it was accommodating 257 prisoners, including five women (151 sentenced and 105 remand prisoners, as well as one person under arrest) on the first day of the visit (and 261 prisoners on the second day).

Odense Remand Prison, built in the 19th century, is centrally located and adjoins the city courthouse. With an official capacity of 68 places, it was accommodating 69 prisoners, including three women (54 remand and 14 sentenced prisoners, as well as one person under arrest) at the time of the visit.

²² According to the 2018 Council of Europe Annual Penal Statistics (SPACE), on 31 January 2018, the ratio of remand prisoners in Denmark was 40.5% compared with a Council of Europe Median of 22.4%; see SPACE I 2018 – Table 8 (http://wp.unil.ch/space/files/2019/06/FinalReportSPACEI2018_190611-1.pdf). At the time of the 2019 visit, the CPT's delegation was informed that remand prisons (remand places) were operating at 103.7% capacity.

²³ Blegdamsvejens Remand Prison, Copenhagen Police Headquarters Prison and Western Prison together made up the Copenhagen prisons and fell under the same director.

Blegdamsvejens Remand Prison entered into service in 1848 and is the oldest Danish prison still in use. It is a 3-storey building located in the densely built-up Nørrebro district in Copenhagen which accommodates adult male prisoners who have been admitted to Western Prison and present no serious risk of escape. With an official capacity of 92 places, it was holding 91 prisoners at the time of the visit (82 remand and nine sentenced prisoners).

The *Police Headquarters Prison* in Copenhagen, built in 1924, was refurbished in 2004 to specifically accommodate “negatively strong” prisoners (i.e. prisoners rated as presenting a high risk of violent behaviour towards staff or other prisoners). With an official capacity of 25 places, it was operating at full capacity at the time of the visit (holding 22 remand and three sentenced prisoners, all men). According to information provided by the Danish authorities, the building would no longer be used as a prison and would revert to its original function as a police facility in 2020; prisoners would be transferred to Western Prison.

2. Ill-treatment

31. In the prisons visited, the delegation observed for itself that staff behaved generally respectfully, and many prisoners spoke positively about the staff. It also noted that the management demonstrated vigilance as regards actions and language of staff under their responsibility and took immediate steps to address any indications of staff misbehaviour.

That said, the delegation received one allegation of recent deliberate physical ill-treatment of an inmate by a prison officer. The allegation concerns one inmate who was purportedly slapped in the face by a prison officer to oblige him to face the wall, in the elevator, at the Copenhagen Police Headquarters Prison.

The delegation also received a few allegations of excessive use of force by prison staff at the Copenhagen Police Headquarters Prison, Western Prison and Storstrøm Prison and by prison transport officers, usually in the context of an altercation between a prisoner and a prison officer.

In addition, the delegation heard some allegations of verbal abuse by prison staff at the Copenhagen Police Headquarters Prison and Western Prison.

The CPT recommends that the Danish authorities deliver the clear message to prison officers in all prisons in Denmark that any form of ill-treatment, including verbal abuse, is totally unacceptable and will be punished accordingly.

The CPT also recommends that prison officers in all prisons in Denmark, as well as prison transport officers throughout the country, be reminded that no more force than is strictly necessary should be used to control prisoners.

32. The problem of inter-prisoner violence remains high on the agenda of the Danish Prison and Probation Service. It has been reflected in the adoption of a series of measures, such as the setting up of new special units²⁴ for prisoners of organised groups seen to be presenting a high risk of violence and abuse towards other prisoners and staff, and the implementation of a “zero tolerance” policy regarding inter-prisoner violence (resulting in disciplinary and/or criminal procedures and punishments, transfers to other establishments, etc.). In parallel, specific episodes of inter-prisoner violence were analysed, and information and good practices were exchanged (within and between establishments) with a view to better understanding, preventing and addressing this phenomenon.

In the prisons visited, inter-prisoner violence did not appear to be a problem, and the delegation observed that staff generally intervened effectively on the few occasions when problems arose. That said, there was no rigorous recording and reporting procedure of all incidents of inter-prisoner violence. Clearly, not all instances were noted down by health-care staff and prison officers. Under such circumstances, it is difficult to identify and address acts of intimidation and violence.

The Committee reiterates its recommendation that a more rigorous approach towards combating inter-prisoner violence in prisons be put in place, which should include systematic recording and reporting of all such incidents.

The Committee also wishes to stress, once again, that, while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the Danish authorities should seek to surround the segregation of disruptive/dangerous prisoners with appropriate safeguards, and should strive to minimise the deleterious effects of such segregation.

3. Prisoners subject to special regime

33. According to information provided by the Danish authorities, the downward trend in the total number of court-ordered isolation of remand prisoners in the interests of the investigation has continued, from 273 in 2008 to 57 in 2013, and 14 (adult prisoners only) in 2018.

The CPT wholeheartedly welcomes the efforts made by the Danish authorities in this regard,²⁵ and **trusts that they will pursue their efforts to ensure that remand prisoners are only placed in solitary confinement in exceptional circumstances which are strictly limited to the requirements of the case.**

²⁴ The “focus departments” (where contacts between prisoners are limited). At the time of the visit, there were “focus departments” at Enner Mark Prison and Nyborg Prison, for prisoners of the “Loyal to Familia” (LTF) gang.

²⁵ The CPT’s delegation was informed that the decrease in the number of court-ordered isolation of remand prisoners resulted from the close monitoring of the use of this measure (initiated in the early 2000s by the Director of Public Prosecutions).

34. Although the duration of court-ordered isolation of remand prisoners is usually relatively short (not exceeding a few days/weeks),²⁶ at the Copenhagen Police Headquarters Prison, one remand prisoner was being held under such a measure for more than five months. Despite the efforts made by prison officers to increase contacts with him (which was difficult, given the shortage of staff; see paragraph 76), this prisoner spent most of his time alone – in the outdoor exercise yard (one hour per day), in the gym (two to three hours per week) or in his cell (usually for 23 hours a day).

Given the potentially harmful effects of solitary confinement, **the CPT recommends that the Danish authorities pursue their efforts to ensure that court-ordered isolation of remand prisoners lasts no longer than is absolutely necessary and to counter the negative effects of this measure.**

The longer the measure of solitary confinement continues, the more resources should be made available to ensure that the prisoners concerned benefit from a programme of purposeful, and preferably out-of-cell, activities and are offered at least two hours of meaningful human contact every day (and preferably more).

35. In previous visit reports, the CPT expressed its strong reservations about the practice of judicial restrictions on remand prisoners' contacts with the outside world (notably as concerns supervised visits, withholding or monitoring of correspondence, and prohibition of telephone calls), known as “B&B” (*Brev- og Besøgsforbud*). The Committee made several recommendations designed to ensure that the adoption of such measures is surrounded by appropriate safeguards and that the restrictions are strictly proportionate to the needs of the criminal investigations.²⁷ In their response to the 2014 visit report, the Danish authorities stated that the Administration of Justice Act provided sufficient safeguards in relation to “B&B” restrictions (including the right to bring before the court the decision to impose such restrictions). They nonetheless announced that a project (involving the Danish Prison and Probation Service, the Danish National Police and the Director of Public Prosecutions) had been launched “to address a number of issues regarding the use of B&B”.²⁸

By letter of 27 August 2019, the Danish authorities informed the Committee that the Director of Public Prosecutions had issued guidelines on the use of “B&B” in 2015. Pursuant to these guidelines, a number of factors need to be considered when evaluating whether to apply (or not) letter and visit controls; moreover, the Prosecution Service is obliged to engage in ongoing discussions with the police to establish whether it is necessary to continue controls (in whole or in part) for the purposes of the criminal investigations.

²⁶ Section 770 (c) of the Administration of Justice Act provides that, unless exceptional circumstances prevail, pretrial solitary confinement cannot exceed: 14 days, where the person is charged with a criminal offence punishable by less than four years' imprisonment; four weeks, where the person is charged with an offence punishable by more than four and less than six years' imprisonment; and eight weeks, where the person is charged with an offence punishable by six or more years' imprisonment.

In exceptional circumstances, in cases where the person detained may, if convicted, be sentenced to more than two years of imprisonment, the period of pretrial solitary confinement may be extended at the request of the prosecutor. In such cases, solitary confinement may not exceed six months, unless the person is charged with drug trafficking, homicide, a crime against the State or a terrorism offence under chapters 12 and 13 of the Criminal Code.

²⁷ See in particular the report on the 2014 visit: CPT/Inf (2014) 25, paragraphs 34 and 35.

²⁸ CPT/Inf (2015) 16, pages 17 and 18.

36. In the CPT's view, this is a step in the right direction. However, in practice, the proportion of remand prisoners on "B&B" restrictions remains high. At the time of the 2019 visit, 15 remand prisoners (out of 22, i.e. 68%) were subject to "B&B" restrictions at the Copenhagen Police Headquarters Prison, 34 (out of 54, i.e. 63%) at Odense Remand Prison, and 55 (out of 105, i.e. 52%) at Storstrøm Prison. Figures provided by the Danish authorities indicate that these measures were lifted after an average of 87 days (visit controls) and 86 days (letter controls).²⁹ In addition, the delegation met with a number of remand prisoners subject to "B&B" restrictions who alleged that they had not received the decision imposing the restrictions.

37. The CPT recognises that on occasion it may be necessary, in the interests of justice, to impose certain restrictions on contact with the outside world for particular remand prisoners. However, the guiding principle should be to promote such contacts as often as possible. Any restrictions on, or prohibition of, visits, phone calls or correspondence should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand (preferably a judicial authority), and be applied for as short a time as possible and for a specified period of time. Further, there should be rigorous supervision of their application. In addition, the decision concerning restrictions/prohibition, with reasons stated, should be made available to the person concerned and his/her lawyer.

The CPT recommends that the Danish authorities bring the relevant legislation and the practice into conformity with these principles without further delay.

38. In the prisons visited, remand prisoners on "B&B" restrictions were, in principle, not permitted telephone calls. They were, as a rule, allowed one 30-minute visit per week (which could be increased to a one-hour, or more, visit after three months of imprisonment) and correspondence was controlled by the police. In this context, the delegation met a number of prisoners who complained about delays (up to two months) in sending/delivering the letters due to the police control.

The CPT recalls that all prisoners, including remand prisoners, should have access to a telephone. This principle is enshrined in the European Prison Rules.³⁰ If there is a risk of collusion, particular telephone calls can be monitored. It also recalls that all prisoners (whether sentenced or on remand), irrespective of the regime, should benefit from a visiting entitlement of at least one hour every week. **The CPT recommends that the Danish authorities take the necessary measures to ensure that this is the case.**

Further, efforts should be made to ensure that letters sent by and addressed to remand prisoners on "B&B" restrictions are forwarded without undue delay.

²⁹ 2018 statistics (at national level).

³⁰ Rules 24 and 99.

39. At the time of the visit, the high security building (Building E) in Storstrøm Prison had four units for different gangs (one for Loyal to Family and three for other “second generation” gangs³¹) and two “specially secure units” (for prisoners rated as presenting a high risk of violent behaviour).

The Committee recalls that it has advocated a number of principles and minimum standards that should be taken into consideration whenever a measure of exclusion from the community is decided. In particular, the prisoners should not be subject to a special security regime for any longer than is required by the risk they present. This implies that prisoners subject to such a regime should have a plan drawn up to address the reasons for the issues which require the placement, and that this plan should be reviewed at regular intervals by a multidisciplinary team (whose members should be specially trained to carry out such an assessment). Further, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will, *inter alia*, enable them to make effective use of avenues for challenging that measure.

In this regard, the information gathered during the visit suggests that an individual plan, setting out the goals and criteria to be achieved in order to allow reintegrating into the general prison population, was not systematically drawn up for all prisoners under the maximum security regime at Storstrøm Prison. **The CPT would like to receive the comments of the Danish authorities on this matter.**

4. Conditions of detention

a. material conditions

40. At *Storstrøm Prison*, prisoner accommodation was provided in five buildings (A to E). Buildings A to D each had 54 places, and the high security Building E (holding “negatively strong” prisoners and other prisoners segregated on security grounds or as a disciplinary measure) had 34 places. Each of the buildings was subdivided into “small units” (for different categories of prisoners and regime) with as little as six or seven places. At the time of the visit, Building A was accommodating prisoners from Køge Remand Prison, which had been temporarily closed for renovation.

Material conditions were excellent. Prisoners were accommodated in single cells³² measuring 12.5m² and equipped with a bed, table, chair, shelves, a call system and a fully-partitioned sanitary annexe. Access to natural light and artificial lighting in the cells was fully adequate. That said, in Building E (where windows could not be opened), prisoners complained that ventilation was not functioning properly, especially during hot summer days and week-ends. **Steps should be taken to remedy this deficiency.**

³¹ Prisoners reported to be members of “traditional” gangs (Bandidos and Hell’s Angels) were accommodated (in own units, i.e. without non-gang members) in an ordinary prison location, in conditions very similar to those provided to ordinary category prisoners.

³² Except for approximately ten prisoners who had to share a cell (two prisoners in a cell, on a voluntary basis).

41. An open space (or “social hub”), with a well-equipped kitchen and a pleasant dining area and living area, was provided for each “small unit” of six or seven cells. Sentenced prisoners cooked for themselves and ate together within their unit.³³ Paintings and other works of art scattered around the detention buildings reduced the impression of a carceral environment.

42. At *Odense Remand Prison*, prisoner accommodation was provided in single occupancy cells measuring approximately 8.3m² (except for two double occupancy cells, measuring approximately 24m²). Cells were in a reasonably good state of repair and suitably equipped (bed, table, chair, wardrobe, shelves and sink, as well as a call system). That said, twelve cells only (in the new part of the prison, dating from 1998) had in-cell toilets (see paragraph 45). In addition, access to natural light was poor in most of the cells. In this respect, the delegation was told that a plan for increasing the size of the cells’ windows was scheduled for 2020. The Committee welcomes this plan; **it would like to receive updated information about its implementation.**

43. Despite the fact that *Blegdamsvejens Remand Prison* is housed in a building dating back to the mid-19th century, the physical conditions of detention were acceptable. Each prisoner occupied a single cell which offered adequate conditions in terms of living space (some 8m²) and equipment (a bed, table, chair, shelves, fridge and sink, as well as a call system). Access to natural light and artificial lighting in the cells were adequate. A toilet had been installed in all cells – however, without any partition (curtain or wall). **In-cell toilet facilities should always be partitioned, i.e. also in single occupancy cells.**

44. Given the Danish authorities’ decision to return the *Copenhagen Police Headquarters Prison*’s building to its original function as a police facility in 2020, the Committee will refrain from commenting in detail on this establishment’s conditions of detention (except in the paragraph below). It will limit itself to welcoming this decision, the conditions at the Police Headquarters Prison not being suitable for periods of detention of several weeks/months.³⁴ **The Committee would like to receive confirmation, in due time, that the Copenhagen Police Headquarters is no longer being used as a prison.**

45. The CPT wishes to stress that it is concerned by one aspect of the conditions of detention in two prisons visited – namely, the delegation heard many complaints about delays in obtaining access to a toilet at the *Copenhagen Police Headquarters Prison* and *Odense Remand Prison*. At the *Police Headquarters Prison*, prisoners said that they often had to wait for up to one hour before being released from the cells to use the toilet facilities and, again, to be accompanied back from the toilet facilities to the cells. At *Odense Remand Prison*, a few prisoners said that they had at times to wait for up to 30 minutes. The delays at night were allegedly much longer. As a consequence, a number of prisoners stated that they had had to urinate in the sink (in the cell) in both establishments. At *Odense Remand Prison*, one prisoner also stated that he had once had to defecate in the waste bin, in the presence of his cellmate, when he was suffering from diarrhoea.

³³ In Denmark a major feature of life for sentenced prisoners is cooking for themselves. They receive a food allowance from the Ministry of Justice and can usually purchase food products from a supermarket on the prison premises.

³⁴ For example, no in-cell toilets; shared shower facilities in need of refurbishment; cage-like outdoor exercise areas on the building’s roof; lack of space for prisoners’ activities.

The Committee recalls that it is incumbent upon the Prison and Probation Service to ensure that all prison establishments are adequately staffed so that all prisoners can access a toilet in a timely manner. That been said, it would clearly be far preferable to install in-cell toilets in all prison establishments. **The CPT reiterates its recommendation that steps be taken to ensure that all prisoners have unimpeded access to toilet facilities without undue delay at all times (including at night), at the Copenhagen Police Headquarters Prison and Odense Remand Prison, as well as in all other prisons in Denmark.**

b. regime

46. *Storstrøm Prison* had a range of modern, high-quality facilities for prisoners' work, education and leisure-time activities. Work was provided in a series of workshops (metal-work and welding, painting, fitting and assembly work, packaging work, bookbinding, carpentry, etc.) and in the establishment's general services (laundry, kitchen, cleaning, gardening, etc.). Education focused mainly on basic training (up to the tenth year of school), but it was possible to take higher-education courses. Further, the establishment provided a programme on substance abuse. Plans were underway to develop vocational training programmes, and a library was under construction.

There were several gyms (one in each unit and one, very large, in the "culture house") and many outdoor exercise yards (one in each unit and several, spacious and nicely designed, next to the workshops and school facilities' areas). The prison's extensive grounds also comprised a football pitch and a running track.

47. The programmes of activities offered to inmates in the prison varied considerably depending on the category of prisoner.

The delegation gained a generally favourable impression of the regime offered to sentenced prisoners in full association. The cell doors were open from 8:00 am to 8:00 pm. A considerable number of prisoners spent a reasonable part of the day engaged in work or education, and a range of leisure activities (in particular sports) was available to them. That said, the delegation was informed that more prisoners would be engaged in activities once start-up problems (e.g. the library still under construction, the need to recruit and train staff) and delays in the commencement of some of the activities (e.g. vocational training) are resolved.

The CPT encourages the management of Storstrøm Prison to pursue their efforts to make full use of the available facilities for prisoners' activities and to seek to engage more prisoners in these activities.

48. Remand prisoners in general had four hours out-of-cell/association time, one hour of outdoor exercise and one hour of gym every day. Work was available for a few prisoners only (e.g. seven prisoners, out of 54, in Building A). In brief, remand prisoners remained locked in their cells for up to 18 hours every day, their main distraction being watching television; this is regrettable as facilities and equipment in the buildings/units could be made available in order to develop and offer more activities.

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 prisoners, 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. eight hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association.

The CPT encourages the management of Storstrøm Prison to develop adequate programmes of activities for remand prisoners, taking into account the above remarks. The longer the period for which remand prisoners are detained, the more developed should be the regime offered to them.

49. In the high security Building (E), prisoners accommodated in the “specially secure units” were entitled to one hour of outdoor exercise, one hour of gym and up to two hours out-of-cell/association time every day, together with one other prisoner (selected by the prison management). Prisoners accommodated in the “gang members’ units” of this building were entitled to one hour of outdoor exercise, one hour of gym and up to four hours in cell association time every day, together with one other prisoner (selected by the prison management); they also had out-of-cell association time (in the kitchen area) once a week with one other prisoner. Although each “small unit” (of six or seven cells) had a hobby/work room, prisoners (on remand and sentenced) said that they were not offered work.

The CPT has serious misgivings about this state of affairs. In its view, the existence of a satisfactory programme of activities is just as important – if not more so – in a high security unit than on normal location: it can do much to counter the deleterious effects upon prisoners’ mental health and social skills of living in the bubble-like atmosphere of such a unit. Prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. They should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities (thus fostering a sense of autonomy and personal responsibility).

The CPT recommends that measures be taken to offer prisoners under the maximum security regime, at Storstrøm Prison, structured programmes of constructive activities, preferably outside the cells, based on individual projects intended to provide prisoners with appropriate mental and physical stimulation.

50. The CPT wishes to emphasise that, as a matter of principle, women deprived of their liberty should be held in accommodation which is physically separate from that occupied by any men being held at the same establishment. That said, some states have begun to make arrangements for some degree of mixed gender association in prisons.³⁵ The Committee welcomes such progressive arrangements, provided that the prisoners involved agree to participate, and are carefully selected and adequately supervised.

³⁵ At Odense Remand Prison, female prisoners carried out work and education alongside, and could have association time with, male prisoners. The female prisoners met by the delegation expressed their appreciation for this mixed prison population regime.

At the time of the visit, female prisoners (one sentenced and four on remand) were being accommodated in a separate unit in Building D – together with one male prisoner who could not be accommodated with male prisoners due to contact problems. As a result (to prevent any contact between them), out-of-cell/association time had been halved for all of them. This situation was a source of frustration for the prisoners concerned. The prison management, with whom the issue was raised, indicated that they would try to find better arrangements. **The CPT would like to receive updated information about the regime in force in the unit for female prisoners at Storstrøm Prison.**

51. At *Odense Remand Prison*,³⁶ there were five outdoor exercise yards (four measuring from approximately 26m² to 38m², and one measuring approximately 120m²) equipped with a table and benches, a tennis-table table, a basketball hoop and fitness equipment (wall bars for gymnastics, etc.), and a covered area to protect prisoners from inclement weather. Prisoners were offered one hour of outdoor exercise every day.

In the basement of the building, several small rooms were used for activities (workshop,³⁷ school, substance abuse and parenting programmes, gym) and for association and leisure purposes. At the time of the visit, the vast majority of the prisoners were involved in an activity. Prisoners were also permitted to associate with one other prisoner in a cell (in the afternoon during week days, and the whole day at week-ends). That said, the main activity on offer consisted of in-cell work (of a monotonous character); as a result, most of the prisoners remained locked in their cells for approximately 20 hours every day.

52. The range of activities and the possibilities to associate were comparable at *Blegdamsvejens Remand Prison*³⁸ – with the exception, to be commended, of one floor (out of three) where cell doors remained open from 7:00 am to 8:00 pm. There were two outdoor exercise yards equipped with a table and benches, a basketball hoop, a volleyball net, and fitness equipment, as well as a covered area to shelter prisoners from inclement weather.

53. The delegation observed that the management at Odense and Blegdamsvejens Remand Prisons encouraged prisoners to engage in activities. However, the challenge facing the management at both establishments was to develop the range of out-of-cell activities on offer (due, *inter alia*, to the design of the premises and the lack of space). **The CPT encourages the management of Odense and Blegdamsvejens Remand Prisons to pursue their efforts to offer all prisoners, in particular those detained for longer periods of time, access to purposeful out-of-cell activities.**

³⁶ The delegation was informed that the average length of stay was approximately 70 days. At the time of the visit, 13 prisoners (19%) had spent more than six months in the establishment.

³⁷ Packaging (10 places).

³⁸ Prisoners usually stayed for less than six months in Blegdamsvejens Remand Prison. At the time of the visit, 12 prisoners (13%) had spent more than six months in the establishment.

54. At the time of the visit, a number of sentenced prisoners were held in Odense and Blegdamsvejens Remand Prisons, as well as in the remand prisoners' buildings at Storstrøm Prison. The delegation was informed that this situation was not exceptional; indeed, delays in transferring prisoners (once sentenced) from a remand prison to a closed prison were increasing due to the fact that prisons were operating at their full capacity. By way of example, at Blegdamsvejens Remand Prison, it usually took two to three months to carry out such a transfer (i.e. to find a place in a prison) and, allegedly, sometimes longer in other prisons.

Steps should be taken to ensure that prisoners, once sentenced, are transferred promptly from a remand prison to a prison (where, *inter alia*, more diversified activities are provided).

5. Health-care services

55. The health-care team at Storstrøm Prison (250 places) comprised two doctors working one day per week each (0.4 full time post) and a team of nurses (3 full time posts³⁹) present five days per week (Monday to Friday). In addition, there were regular visits from a psychiatrist and a dentist (one day per week), a psychologist (two hours per week), a physiotherapist (three hours per week), a chiropodist and an optician (once every two months). The CPT's delegation received many complaints about long waiting times to see the doctor (up to four weeks) and the dentist (as a rule between four to six months, and up to two weeks in the case of an emergency).

At Odense Remand Prison (68 places), the provision of health-care services was ensured by a doctor present one half-day per week (seeing on average 10 patients) and on-call during working hours from Monday to Friday, and by a nurse whose presence had regrettably been reduced to four days per week.⁴⁰ On a more positive note, following a recommendation made by the CPT after its 2014 visit, a psychiatrist was now present on a regular basis (1.5 hours once a fortnight, seeing between two and five patients), and a psychologist paid visits to the prison upon request (from the doctor, the nurse, the social worker or the teacher). Furthermore, two prisoners were taken to a dentist (in Odense) every Thursday.

The health-care service for the Copenhagen Prisons was based in Western Prison. A doctor paid a weekly visit (lasting three to four hours) to both Blegdamsvejens Remand Prison (92 places) and the Police Headquarters Prison (25 places) and was on call during working hours from Monday to Friday. In addition, a nurse was present two days per week at Blegdamsvejens Remand Prison and one day per week at the Police Headquarters Prison. Consultations with the psychiatrist, the psychologist and the dentist (as well as with other specialists) were organised upon request.

56. In the CPT's view, the surgery hours of the general practitioners were not sufficient in any of the prisons visited. It is also a matter of concern that neither of the establishments had a nurse present at night and on weekends.

³⁹ In addition, at the time of the CPT's visit, there was a fourth full time post (for a nurse from Køge Remand Prison) which had been temporarily assigned to Storstrøm Prison until the completion of the renovation works at, and the reopening of, Køge Remand Prison.

⁴⁰ As compared with five days per week at the time of the 2014 visit.

The CPT considers that establishments accommodating remand prisoners should have health-care staff coverage seven days a week and rapid availability of health-care staff at night time. As a minimum, a person competent to provide first aid should always be present in such establishments, including at night and on weekends; preferably, this person should be a qualified nurse.

More generally, the CPT considers that all prisons would benefit from daily visits by a qualified nurse, who could respond to the prisoners' needs for basic care and, where necessary, refer cases to a doctor. Furthermore, the nurse could receive prisoners' requests for consultations and administer medicines, tasks currently performed (in all the prisons visited) by medically untrained officers (a practice which can also violate medical confidentiality; see paragraph 65).

In the light of the above, **the Committee recommends that:**

- **the Danish authorities increase (at least double) the presence of general practitioners at Storstrøm Prison, Odense Remand Prison and Blegdamsvejens Remand Prison, and improve the access to dental care at Storstrøm Prison;**
- **efforts be made to arrange daily visits, i.e. including at week-ends, by a nurse in Storstrøm Prison, Odense Remand Prison and Blegdamsvejens Remand Prison, as well as in the Copenhagen Police Headquarters Prison for as long as it remains in service.**

57. The CPT's delegation noted that the co-ordination between the members of the health-care team (and between health-care and security staff) was limited at Odense Remand Prison and nearly non-existent at Storstrøm Prison where nurses were alone most of the time. Moreover, the health-care services at Storstrøm Prison were poorly organised (there were no entry screening procedures (not even a form to be filled in), no overview of the prisoners receiving medication and no epidemiological oversight of infectious diseases (not even for the group at highest risk, i.e. prisoners who used drugs), outdated medicines were stocked in the pharmacy, files' content left much to be desired, etc.; the absence of a clear structure and chain of responsibility had a visibly negative impact on the quality of care.

In the CPT's view, to operate satisfactorily, health-care services in a prison must be placed under the responsibility of a designated member of the health-care team who should effectively play a leadership and co-ordination role. Moreover, this person should interact closely with the management of the prison, under strict observance of medical confidentiality. **The Committee recommends that the Danish authorities take steps to ensure that the afore-mentioned precepts are implemented at Storstrøm Prison and at Odense Remand Prison, as well as in all other prisons in Denmark.**

58. The CPT's delegation was informed that some years previously, induction training had been set up for nurses and doctors starting work in prison. This initiative is to be commended. That said, not all nurses and doctors met in the prisons visited had attended this training. **Steps should be taken to remedy this deficiency.**

59. At Odense Remand Prison, the nurse had not been trained to perform blood tests; prisoners who needed such a test were sent to the hospital. As a result, blood tests were almost never performed. **The CPT recommends that nurses be trained to perform blood tests at Odense Remand Prison and, where appropriate, in other prisons in Denmark.**

60. Despite the recommendations reiterated by the Committee since its very first visit to Denmark in 1990,⁴¹ there was still no systematic and prompt medical screening of all newly-arrived prisoners, including checking for the presence of injuries and transmissible diseases, in the prisons visited.

At Storstrøm Prison, local procedures allowed for newly-admitted prisoners to be screened by a nurse within 72 hours of their arrival. However, the nurses admitted that such screening was not always performed, and a number of remand prisoners stated that they had only seen a nurse or a doctor after they had requested it. In addition, the medical screening upon admission did not include systematic screening for symptoms of tuberculosis (TB), nor voluntary testing for HIV and hepatitis B and C.⁴²

At Odense Remand Prison, there was no systematic medical screening upon admission; the nurse relied on the intake screening carried out by the prison officers (which was limited to two questions related to mental health⁴³). Moreover, there was no screening in place for infectious diseases.⁴⁴

No systematic medical screening upon admission was carried out at Blegdamsvejens Remand Prison or at the Copenhagen Police Headquarters Prison, because prisoners transferred to those establishments (from Western Prison) had in principle been screened prior to their transfer. However, at Blegdamsvejens Remand Prison, the nurse regularly⁴⁵ encountered prisoners who had arrived without having been medically screened at Western Prison. As in Odense, there was no screening in place for infectious diseases.

61. By letter of 27 August 2019, the Danish authorities informed the Committee that, pursuant to the Executive Order on Prisoners' Health Care, all adult prisoners must in principle be offered a conversation with a doctor or a nurse as soon as possible upon admission. Exceptions are possible for prisoners sentenced to a very short term of imprisonment and prisoners who are transferred from an establishment where they have already had such a conversation. As a rule, patients must consent to health-care treatment in Denmark; thus, if a prisoner (able to give informed consent) does not wish to be examined (or receive treatment), he/she cannot be forced to undergo examination or treatment.

⁴¹ CPT/Inf (91) 12, paragraph 48.

⁴² A doctor from the CPT's delegation spoke with two prisoners who said they had been tested positive for hepatitis C; they also declared that neither the nurses nor the doctor had ever asked for this information. The health-care team was not aware of this information and had not proposed a blood test (although the prisoners had several risk factors for hepatitis C). Furthermore, according to the nurses, no-one had been treated for hepatitis C since the opening of Storstrøm Prison in 2017.

⁴³ Question 1: Do you feel that you need to speak to a psychiatrist/psychologist? Question 2: Does the prison officer [...] believe that the detained person should be seen by a psychiatrist/psychologist?

⁴⁴ At the time of the visit, only one patient was receiving treatment for hepatitis C; the treatment had been decided before the patient had entered the prison and was paid for by the community pharmacy. A doctor from the CPT's delegation spoke with several prisoners who had a drug dependence problem; none of these high-risk prisoners had received a blood test for HIV, hepatitis B or hepatitis C.

⁴⁵ On average one prisoner every week.

The CPT must stress, once again, that the initial medical screening of all persons admitted to a prison should be obligatory, not an option offered to them.⁴⁶ Such systematic screening is essential, in the interests of the prisoners and of the staff, in particular to identify special medical needs, prevent the spread of transmissible diseases, reduce the risk of suicides and ensure the timely recording of any injuries. Save for exceptional circumstances, the initial medical screening should be carried out on the day of admission, especially as regards the prisoners entering the prison system.

The CPT recommends once again that the Danish authorities take the necessary measures – including by amending the Executive Order on Prisoners’ Health Care – to ensure that all prisoners are properly interviewed and physically examined by a medical doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their admission to prison, and preferably on the day of arrival at the establishment.

Further, each prison health-care service should have in place a screening procedure (tool) to enable them to properly assess the health-care needs of each newly-admitted prisoner. The procedure should include systematic TB screening and systematic voluntary testing for HIV and hepatitis B and C.

62. Despite the recommendation made by the CPT in its report on the 2014 visit, no proper recording and reporting system for injuries recorded by doctors (vis-à-vis newly-admitted prisoners or following a violent episode in prison) had been put in place.

The findings of the delegation indicate that, in the prisons visited, injuries were not systematically recorded. Furthermore, when injuries were recorded, descriptions were often incomplete or imprecise (no mention of the injury’s size and colour, no body charts/photographs, etc.) and there were no observations on the consistency between allegations/statements made by the prisoners and the objective medical findings. **In this regard, reference is made to the recommendation in paragraph 20, which applies *mutatis mutandis*.**

63. As regards medical confidentiality, it appeared that, as a rule, health-care examinations took place out of the hearing and out of the sight of custodial staff in Blegdamsvejens Remand Prison, Odense Remand Prison and Storstrøm Prison. However, at the Copenhagen Police Headquarters Prison (where health-care examinations were carried out in the prisoners’ cells), the delegation was informed that, for prisoners on the fourth floor (i.e. classified in a high-risk category), custodial staff were systematically present in the cells during such examinations.

In the CPT’s view, there can be no justification for custodial staff being systematically present during health-care examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and is usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. Possibilities might include the presence of a nurse during the consultation and/or the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination. **The Committee recommends that steps be taken to bring practice into line with the afore-mentioned considerations in the Copenhagen Police Headquarters Prison for as long as it remains in service.**

⁴⁶ See also Rule 42.1 of the European Prison Rules.

64. As at the time of the 2014 visit, in order to see a member of the health-care service, prisoners had to hand over a written application to a prison officer who passed it on to a nurse. The possibility of placing the application in a sealed envelope existed (e.g. at Odense Remand Prison, prisoners received application forms (*anmodningsseddel*) and envelopes) but was rarely used; most of the prisoners appeared to be unaware of this option.

The CPT recommends, once again, that steps be taken to ensure that prisoners have confidential access to the health-care service in all the prisons in Denmark. In particular, prisoners should not be obliged to state to prison officers the reason why they wish to see a member of the health-care staff. Submitting request forms in sealed envelopes is a valid option but requires, *inter alia*, that all prisoners are properly informed about this possibility. The installation (in all units) of dedicated locked letterboxes for requests for medical consultations to which only members of the health-care team have access could be another option.

65. In all the establishments visited, the distribution of medicines (including specific medicines such as methadone) was carried out by prison officers (from dosage boxes prepared by nursing staff). As a result, medication and its dosage were clearly visible to the custodial staff. Such a practice compromises medical confidentiality requirements and does not contribute to the proper establishment of a doctor-patient relationship. In addition, prisoners did not always receive the correct medication doses. By way of example, at Storstrøm Prison, the CPT's delegation observed that one prisoner had not received the prescribed methadone dose because the prison staff (who were in charge of crushing the methadone tablets prior to administering them to prisoners) had not completely emptied the crushing device – this was allegedly not unusual.

In the CPT's view, for confidentiality and safety reasons, the preparation of medicines should always be entrusted to qualified staff (pharmacist, nurse, etc.) and medication should be distributed by health-care staff. **The Committee recommends that steps be taken to ensure that this is the case in all the prisons in Denmark.**

Furthermore, **the Danish authorities are invited to draw up a list of medication that should in every case be distributed by health-care staff (such as methadone and antiretroviral drugs).**

66. As mentioned in paragraph 57, outdated medicines were stocked in Storstrøm Prison's pharmacy. **The CPT recommends that steps be taken to ensure appropriate supervision of the pharmacy at Storstrøm Prison.**

67. The health-care facilities and equipment varied from basic at the Copenhagen Police Headquarters Prison, to adequate at Blegdamsvejens and Odense Remand Prisons, and excellent at Storstrøm Prison. In this latter establishment, the health-care unit included, *inter alia*, four consultation rooms, a sterilisation room, a room for the storage of medicines (with a fridge), a kitchen, two rooms for the staff (an office and a meeting room) and two waiting rooms for the prisoners.

That said, none of the prisons visited had medical oxygen. In addition, there was no electrocardiography (ECG) machine at Odense Remand Prison or at the Police Headquarters Prison.

The CPT recommends that at a minimum every prison be equipped with medical oxygen as well as an electrocardiography machine. Further, nurses should be trained to perform electrocardiograms, and ECG interpretation should be ensured.

68. Medical files were kept either electronically (at the Copenhagen Police Headquarters Prison and Blegdamsvejens Remand Prison) or on paper (at Storstrøm Prison and Odense Remand Prison). The electronic files do not call for any particular comments. However, paper files were not well organised, with the result that basic information (what are the health problems, what has been done and what needs to be done) were difficult to retrieve; in other words, it was not easy for all members of the health-care team (in particular at Storstrøm Prison) to have a clear overview of the patients' situation and health problems. **Steps should be taken to remedy this deficiency.**

69. In the course of the visit, the CPT's delegation was informed that a significant number of mentally ill prisoners requiring in-patient psychiatric treatment could not be kept and cared for in appropriate health-care facilities (secure psychiatric wards) due to bed shortages in such facilities. Members of the health-care team at the Copenhagen Police Headquarters Prison indicated that the patients referred to a civil psychiatric hospital in an emergency would as a rule be rapidly sent back to prison; therefore, to avoid numerous ("ping pong") transfers (which have a detrimental effect on the patients), patients who should be cared for in a psychiatric hospital were reportedly kept in prison.

The CPT wishes to receive the comments of the Danish authorities on this matter.

70. The presence in prisons of 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 psychological support, life skills rehabilitation and substitution programmes for opioid-dependent patients who cannot discontinue taking drugs. Further they should be associated with a prevention policy.

Opioid agonist therapy (OAT) was available for prisoners who were dependent on opioids.⁴⁷ However, due, *inter alia*, to the absence of systematic medical examination upon admission (or the delay in carrying out such examinations), prison staff – who did not receive specific training – had to be alert to, and bring to the attention of health-care staff, signs of possible drug dependence. Further, it was found that in a number of cases, physical observations and examination prior to prescribing medication was incomplete. The delegation also noted that medication was distributed by prison staff (see paragraph 65) and that the follow-up process for persons prescribed treatment was inadequate (in some cases, there was no clinical follow-up recorded after the medication was prescribed, and doses were not adapted).

⁴⁷ OAT could be continued or initiated at the prisons.

By way of example, at Storstrøm Prison, a doctor of the delegation met with one prisoner who did present withdrawal symptoms indicating that the prescribed methadone dose was insufficient. At Odense Remand Prison, one prisoner who was receiving methadone and whose ECG (performed at the beginning of November 2018) was indicating a borderline value,⁴⁸ had not received a control ECG since this date nor had he been offered testing for HIV/hepatitis B and C; in addition, there was no information in his file concerning potentially unsafe behaviour (e.g. injecting or tattooing). Such a state of affairs is unacceptable as 1) people who use drugs are at very high risk of infection from blood-borne viruses and 2) methadone can increase the risk of potentially fatal heart arrhythmia.

The CPT recommends that initial assessments of substance misuse include systematic physical examinations and that all prisoners prescribed opioid agonist therapy (OAT) be seen by a doctor upon admission. Further, such prisoners should have a care plan drawn up and be regularly followed-up by health-care staff.

71. Where risk prevention is concerned, the delegation noted that condoms were provided in the visiting areas at Storstrøm Prison and Odense and Blegdamsvejens Remand Prisons. **It would be desirable to expand this good practice, e.g. by also providing condoms at prison infirmaries, in the establishments visited and in all other prisons in Denmark. Furthermore, other prevention services should be made available, such as needle and syringe exchange programmes and relevant vaccination.**

72. There was no gender-specific medical screening for women upon admission at Storstrøm Prison and Odense Remand Prison, e.g. no questions were asked by the health-care team about sexual abuse or other gender-based violence and cervical cancer screening was not offered. In addition, none of the female prisoners had been seen by a gynaecologist when needed. **The CPT recommends that measures be taken to address these shortcomings.**

73. The delegation was informed that Jyderup Prison would be renovated and would reopen in the spring of 2020 as a women's prison.

In this context, the Committee wishes to emphasise that, in its 10th General Report, it had highlighted a number of health issues in respect of which the needs of women deprived of their liberty differ significantly from those of men. In particular, health care should be provided by doctors and nurses who have specific training in women's health issues, including in gynaecology; in addition, efforts should be made to ensure that adequate supplies of specialist medication required by women are available in places of detention.⁴⁹

The CPT would like to receive information about the measures taken to ensure that the health-care services at Jyderup Prison are organised in line with the afore-mentioned considerations.

⁴⁸ QTc interval of 446 ms (QTc intervals above 450/460 ms are associated with abnormal heart rhythm and possible sudden cardiac arrest).

⁴⁹ See <https://rm.coe.int/1680696a74>, paragraphs 30 to 33, and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules).

74. The CPT's delegation was also informed that the Danish Patient Safety Authority would, for the first time ever, carry out an assessment of the health-care services in prisons in 2019. To this end, 20 prison establishments would be visited all over Denmark. **The CPT would like to receive in due course a copy of the final report issued by the Danish Patient Safety Authority on the assessment of the prison health-care services, as well as information on any action taken by the Danish authorities following this assessment.**

75. The recent policy trend in Europe has favoured prison health-care services being placed either to a great extent, or entirely, under Ministry of Health responsibility.⁵⁰ In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of the Ministry of Health in this area (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection) will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community.

Denmark is among those of the States Parties to the Convention which has decided that the provision of health care to prisoners should be under the entire responsibility of the Ministry of Justice. The facts found during the 2019 visit suggest that a much closer involvement of the Ministry of Health is required. At the very least co-ordination between the Ministries of Justice and Health (at both the senior and the operational levels) and specific protocols for the provision of primary and specialist health care in prisons, reflecting particular health care needs of the prisoner population, should be developed.

The CPT recommends that the Danish authorities ensure that the Ministry of Health becomes more actively involved in supervising the standard of care in places of deprivation of liberty (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection). Consideration should be given to transferring the responsibility for prison health care to the Ministry of Health.

⁵⁰ See, for example, Recommendation No. R (98) 7 of the Committee of Ministers of the Council of Europe to member States concerning the ethical and organisational aspects of health care in prison.

6. Other issues

a. prison staff

76. At the outset of the visit, the CPT's delegation was informed by senior officials from the Ministry of Justice that the Prison and Probation Service was suffering from a shortage of staff. From 2013 to 2017, the number of prisoners had dropped by approximately 14%, and the number of staff by approximately 11%. In 2018, following an increase in the number of prisoners, the authorities launched a very active recruitment campaign, which resulted in the recruitment of 196 uniformed staff members (122 prison officers and 74 transport officers). However, staff levels did not increase that year, due to the high number of prison officers who had left the Prison and Probation Service.⁵¹ The authorities announced that the recruitment campaign would continue, with the aim to recruit 225 additional staff (150 prison officers and 75 transport officers⁵²) in 2019. Furthermore, a second training centre for prison and probation staff would open (in Jutland⁵³). That said, recruiting prison officers posed a serious challenge, prison jobs not being very attractive in Denmark.

In all the prisons visited, there were many prison officer posts vacant: 37 out of 126 at Storstrøm Prison,⁵⁴ seven out of 25 at the Copenhagen Police Headquarters Prison (28%) and five out of 35 at Odense Remand Prison (14%). At Blegdamsvejens Remand Prison, five out of 33 prison officers were temporarily "on loan" to Western Prison (owing to a staff shortage in that establishment). Such low staff complements had important negative consequences – in particular, a limited number of prison officers per shift,⁵⁵ significant amounts of overtime⁵⁶ and sick days,⁵⁷ and fewer activities on offer. In addition, lawyers met by the CPT's delegation stated that, at the Police Headquarters Prison, access to their clients was difficult (and some days, not possible) due to a lack or the unavailability of staff.

⁵¹ In 2018, 196 prison officers and two transport officers left the Prison and Probation Service.

⁵² It was expected that 50 out of the 75 prison transport officers would (in addition to their transport duties) assist prison officers in a number of tasks (access controls, etc.).

⁵³ The training centre opened in the summer of 2019 in Møgelkær. The location (Jutland) was chosen to spread the training sites across the country and, thus, attract possible candidates living far from Copenhagen.

⁵⁴ 126 staff for four out of the five buildings (i.e. excluding building A, temporarily occupied by prisoners from Køge Remand Prison, with prison officers temporarily "on loan" from that establishment).

⁵⁵ By way of example: there were only five prison officers during the day shift at the Copenhagen Police Headquarters Prison (25 places), a 4-storey building where the security rules and procedures require the presence of up to four guards when moving one prisoner.

⁵⁶ By way of example: 1913 overtime hours in January 2019 at Storstrøm Prison, and 822 overtime hours in March 2019 (i.e. on average 33 overtime hours per prison officer) at the Copenhagen Police Headquarters Prison.

⁵⁷ In 2018 (on average, per prison officer): 25.5 days at national level (out of 200 working days), 32.7 days at Odense Remand Prison and 24.1 days at Storstrøm Prison.

77. The CPT has repeatedly emphasised that there must be enough staff to correctly supervise the activities of prisoners and support each other in the performance of their duties. An overall low staff complement and/or specific staff attendance systems which diminish the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, it will generate an insecure environment for both staff and prisoners. In addition to creating a potentially dangerous situation for vulnerable prisoners, it also poses dangers for staff. Where staff complements are inadequate, there is a tendency to resort to significant amounts of overtime in order to maintain a basic level of security and regime delivery in an establishment. This state of affairs can easily result in high levels of stress in staff and premature burnout, a situation which is likely to exacerbate the tension inherent in any prison environment. In addition, a low staff complement will have a negative influence on the quality and level of the activities programme developed.

The CPT recommends that the Danish authorities persevere in their efforts to recruit prison staff and improve staffing levels in the prisons visited (as well as, where applicable, in other prisons).

78. During the end-of-visit talks with the Danish authorities, the delegation expressed its concern about the fact that, at Storstrøm Prison, staff⁵⁸ might leave in June 2019 without being replaced while the number of prisoners could remain unchanged – a state of affairs which would result in a further deterioration in the staff/prisoner ratio.

By letter of 27 August 2019, the Danish authorities informed the Committee that it had been decided that building A (with a capacity of 54 places, temporarily occupied by prisoners from Køge Remand Prison) would be “provisionally deactivated” when Køge Remand Prison reopened. The CPT fully concurs with this decision. **It would like to receive updated information regarding the number of staff and the number of prisoners at Storstrøm Prison.**

79. On a positive note, the CPT’s delegation observed that mixed-gender staff was the rule in all the prisons visited, and at all levels in the hierarchy. By way of example, about 40% of the prison staff were female at Storstrøm Prison and at Blegdamsvejens Remand Prison (about 38% for the three Copenhagen prisons taken together).

⁵⁸ The staff temporarily transferred from Køge Remand Prison to Storstrøm Prison (pending completion of the renovation and the reopening of Køge Remand Prison).

b. discipline

80. In its report on the 2014 visit, the CPT had recommended that the Danish authorities reduce the maximum duration of solitary confinement when used as a disciplinary measure (four weeks, i.e. 28 days).⁵⁹

It is regrettable that this recommendation has not been followed up. On the contrary, policy regarding discipline in prisons has been toughened up since then. At the time of the 2019 visit, the maximum duration of disciplinary confinement was still 28 days.⁶⁰ Furthermore, the list of infringements punishable by solitary confinement had been extended.⁶¹ In addition, the heads of establishment had lost much of their discretionary power in this area: when certain conditions were met, they were *obliged* to order the prisoner's placement in solitary confinement for the duration set at national level ("zero tolerance" policy). In these circumstances, it is not surprising that both the number of placements in disciplinary solitary confinement and the duration of those placements had greatly increased – from 2,959 placements in disciplinary confinement, including five for periods of more than 14 days, in 2013 to 4,752 placements in disciplinary confinement, including 674 for periods of more than 15 days, in 2018 (at national level). At Storstrøm Prison, between 1 January 2018 and 5 April 2019, there had been 359 decisions to place prisoners in disciplinary confinement, including 61 (around 17% of the total) for periods ranging from 15 to 28 days.

81. The Committee reiterates its view that, given the potentially very damaging effects of solitary confinement, disciplinary confinement should be imposed only in exceptional cases and for the shortest possible duration – no more than 14 days, and preferably less. In addition, there should be a prohibition on imposing successive disciplinary sanctions resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.⁶²

The CPT calls upon the Danish authorities to revise the legislation in relation to disciplinary matters, taking into account the above remarks.

In this connection, there should be a rethink of disciplinary policy in prisons and, in particular, the cases in which solitary confinement may be imposed and the duration of such confinement.

82. The CPT's delegation was informed that the Law on the Enforcement of Sentences had been amended in 2018 concerning solitary confinement as a disciplinary sanction in respect of juveniles. In particular, the length of the solitary confinement has been reduced to a maximum of three days as a general rule, and of seven days under specific circumstances. However, the maximum of four weeks (28 days) still applies in cases of violence against staff.

⁵⁹ CPT/Inf (2014) 25, paragraph 61.

⁶⁰ Section 70 of the Law on the Enforcement of Sentences.

⁶¹ In 2016 and 2017, being in possession of or using a mobile phone, smoking outside authorised areas and abusive/insulting language were added to the list of infringements punishable by solitary confinement.

⁶² See the 21st General Report of the CPT, paragraph 56 (CPT/Inf (2011) 28).

The Committee wishes to stress that any form of isolation may have an even more detrimental effect on the physical and/or mental well-being of juveniles. In this regard, it observes an increasing trend at the international level to promote the abolition of solitary confinement as a disciplinary sanction in respect of juveniles.⁶³ The CPT fully endorses this approach and **recommends that solitary confinement as a disciplinary punishment for juveniles be abolished in Denmark.**

83. During the visit, the delegation was told that, owing to the large number of disciplinary confinement sanctions imposed,⁶⁴ the disciplinary cells in several prisons were constantly occupied and there were waiting lists of prisoners due to serve out their punishment. As a result, prisoners were sometimes transferred to other prisons (where disciplinary cells were available)⁶⁵ in order to be placed in disciplinary cells and/or did serve their punishment several weeks after the decision against them.

In the Committee's view, when it is deemed necessary to impose disciplinary punishment on a prisoner, this must be done within days rather than weeks after the infringement. The sooner the punishment is imposed and served, the more likely it is to be effective and bring about a change in the prisoner's behaviour. Waiting for weeks, or sometimes months, to hold a hearing, impose a sanction (of whatever kind) and implement it undermines the purpose of the disciplinary procedure and renders the punishment ineffective.

In addition, the Committee has reservations regarding the practice of transferring inmates to other prisons to serve a disciplinary sanction. Such transfers can cause, for the prisoners concerned, difficulties in maintaining appropriate contacts with their families and lawyers. As far as possible, a prisoner should serve any disciplinary sanction within the establishment where the offence was committed.

The CPT recommends that the Danish authorities take the necessary steps to shorten the time required to implement the disciplinary confinement sanctions imposed. It also recommends ending the practice of prisoners being transferred to other establishments solely to serve a disciplinary punishment.

84. The delegation found that, in all the establishments visited, the health-care staff did not make daily visits to prisoners placed in disciplinary cells. The Committee wishes to underline that prison health-care staff must be especially vigilant as regards the situation of these prisoners.

The CPT recommends that, in all the establishments visited (and, where applicable, in all prisons in Denmark), all placements in disciplinary cells be immediately brought to the attention of the medical service. Health-care staff should visit the prisoner immediately after their placement and on a regular basis (at least once a day) thereafter and provide any necessary assistance and medical care without delay.

⁶³ See, *inter alia*, Rule 45 (2) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), (A/RES/70/175; <https://undocs.org/A/RES/70/175>) and Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (A/RES/45/113, Annex; <https://undocs.org/A/RES/45/113>).

⁶⁴ By way of example, at Storstrøm Prison: 359 placements in disciplinary confinement, representing a total of 1,853 days' confinement, over the period 1 January 2018 - 5 April 2019; at Odense Remand Prison: 300 placements in disciplinary confinement, representing a total of 630 days' confinement, over the period 8 April 2018 - 8 April 2019.

⁶⁵ Notably Storstrøm Prison.

85. The safeguards afforded to prisoners within disciplinary procedures were satisfactory on the whole. In particular, the right to be heard and the right to receive a reasoned decision in writing appeared to be scrupulously respected. That said, **the Committee wishes to receive confirmation that all disciplinary sanctions may be appealed against by prisoners.**

86. On a positive note, the delegation observed that (electronic) registers of disciplinary procedures were very well kept in the establishments visited.

c. security-related issues

87. Placement in solitary confinement in an observation cell is governed, *inter alia*, by Ministry of Justice Decree No. 429 of 9 April 2015 on the exclusion of inmates from the prison community, including placement in observation cells, etc.⁶⁶ Pursuant to that decree, a prisoner may be placed in an observation cell to prevent acts of vandalism, to maintain public order and security or for the purpose of “special observation” (Section 16). The placement must be discontinued as soon as the reasons for it no longer exist (Section 18). Decisions to place prisoners in observation cells and to end such placements are taken by the regional Prison and Probation Service (Section 19). A doctor must be called if there are grounds to suspect that a person placed in an observation cell is ill or has been injured during the placement, or if that person asks to see a doctor (Section 20). If a placement in an observation cell lasts more than three days, the Prison and Probation Service must be notified immediately and the reasons stated. During a placement in an observation cell, the prisoner must be monitored on a regular basis by prison staff, who must note on “observation sheets” the dates and times when the prisoner was monitored, together with information on the state of the prisoner (including any change in their situation) and any comments regarding the necessity of continued placement (Section 21).

88. The delegation observed that in the establishments visited, some “special observation” placements had been decided in order to prevent suicide and self-harming. The Committee recalls that procedures to place prisoners in observation cells on grounds of public order and security should be clearly distinguished from those linked to preventing suicide and self-harm.

The placement of a prisoner in an observation cell for the purpose of preventing suicide or self-harm, as well as its continuation, should only be made upon the authorisation of a medical doctor, when all other measures are inadequate. Further, the health-care staff should attend prisoners placed in observation on a daily basis. This was found not to be the case in the establishments visited. **The CPT recommends that the necessary steps be taken (including at legislative and regulatory level) to remedy these shortcomings.**

⁶⁶ *Bekendtgørelse om udelukkelse af indsatte fra fællesskab, herunder anbringelse i observationscelle m.v., i fængsler og arresthuse (bekendtgørelse om udelukkelse fra fællesskab).*

89. From 1 January 2018 to 31 March 2019, in Storstrøm Prison, there had been 66 placements in an observation cell (two to prevent acts of vandalism, 23 to maintain public order and security and 41 for special observation), of which around 80% had lasted less than ten hours. However, two of the placements (for special observation) had lasted over 24 hours (one around 25 hours and the other nearly two days, i.e. just under 44 hours). Over the same period, in the Copenhagen Police Headquarters Prison, there had been 61 placements in observation cells (two to prevent acts of vandalism, 41 to maintain public order and security and 18 for special observation), of which around 70% had lasted less than ten hours. However, two of these placements (one for special observation and the other to maintain order and security) had lasted over 24 hours (one around 32 hours and the other nearly three days, i.e. a little over 61 hours).⁶⁷

The Committee recalls that where there is a need for a disruptive or violent prisoner to be rapidly transferred to an observation cell, the person concerned should only be kept in such a cell until such time as he/she has calmed down, whereupon he/she should be placed in an ordinary cell (and, if appropriate, managed through the disciplinary process or the provisions regulating removal from association under Section 63 of the Law on the Enforcement of Sentences).

The CPT recommends, once again, that the Danish authorities review the use of observation cells as regards both prisoners at risk of suicide or self-harm and prisoners who are disruptive or violent.

90. The delegation was told of the case of a suspected body-packer placed in an observation cell for a little over three days (78 hours) in April 2018 at Blegdamsvejens Remand Prison. The person had been brought in by police from Hvidovre hospital (Copenhagen), which had refused to keep him owing to his “refusal to co-operate”. As the remand prison has no special facilities, it had been decided, after consulting the person fulfilling the role of the prison services “security officer” that day, to place the suspected body-packer in the observation cell, with two members of prison staff on permanent guard duty in front of the cell door, which had been left open. The prisoner had used a bottle and a bedpan to relieve himself.

In the Committee’s view, in addition to a specialised facility, the detention of suspected body-packer requires appropriate medical surveillance, owing to the serious risk of acute poisoning and intestinal blockage, both of which can result in death. **The CPT recommends that appropriate medical surveillance be put in place when suspected body-packers are placed in detention (including in observation cells).**

91. The observation cells in the establishments visited were satisfactorily equipped for short placements. In particular, all the cells had a bed (with a mattress and blankets), a table and chairs/benches that were fixed to the floor, as well as a call system. A window (in the wall or door) allowed surveillance by prison staff from outside the cell.

⁶⁷ In 2018, there had been 22 placements in observation cells at Odense Remand Prison, and ten at Blegdamsvejens Remand Prison.

92. As a rule, the prisoners placed in an observation cell had to strip down to their underwear and remain in this state while in the cell. In the Committee's view, this practice is totally inappropriate. A prisoner's clothing should be removed only where justified by an individual risk assessment (to prevent an obvious risk of suicide or self-harm for example); in such cases, they should be provided with rip-proof clothing and footwear. **The CPT recommends, once again, that steps be taken along these lines in the light of the above comments.**

93. As during the 2014 visit, placement in a security cell was governed by Section 66 of the Law on the Enforcement of Sentences, which states that a prisoner may be placed in a security cell and, if necessary, immobilised using a restraint belt, wrist and ankle straps and gloves, to avoid any imminent violence or bring a prisoner who is violently resisting under control or prevent suicides and self-harming. Placement in a security cell and immobilisation (hereinafter "fixation") may be decided upon only if the measure does not appear disproportionate to the aim of the intervention and to the loss of dignity and discomfort it might cause. Furthermore, any placement in a security cell or fixation must be carried out with as much tact and consideration as the circumstances allow.

94. Following the recommendation made in the report on the CPT's 2014 visit, the Prison and Probation Service has drawn up a number of documents regarding placement in a security cell and fixation, providing detailed descriptions and/or summaries of the procedures (taking of the decision, application of placement and fixation measures, reports, discontinuation of measures and debriefing/follow-up).⁶⁸ The delegation noted that these documents were available in the prisons visited which had a security cell and that they had been circulated to the members of staff concerned, who were familiar with their contents. These are positive developments.

95. Storstrøm Prison and the Copenhagen Police Headquarters Prison each had one security cell equipped with a bed fixed to the floor (with a five-point restraint system to hold a prisoner lying on his back). When prisoners were fixated in the security cell, a prison officer was posted outside the cell to directly and continuously monitor them through a window, and tasked with noting down observations every 15 minutes. Examination of the files showed that security cell placements, fixation measures and the quarter-hourly observations were meticulously logged.

96. In Storstrøm Prison, from 1 January 2018 to 3 April 2019, there had been 43 placements in security cells (13 for violence and 30 to prevent suicide or self-harming), 20 of them with fixation (eight for violence and 12 to prevent suicide or self-harming). During the same period, at the Copenhagen Police Headquarters Prison, there had been 25 placements in security cells (24 for violence and one to prevent suicide or self-harming), 13 of them with fixation.

⁶⁸ Notably: Action card for *Sikringscelle* (security cells); Instructions to staff tasked with surveillance of a prisoner who has been fixated in a security cell (*Instrukts til den faste vagt ved en indsat der er fikseret under sikringscelleanbringelse*); Circular for the prevention of vein thrombosis in connection with placement in a security cell and fixation (*Forholdsordre: Forebyggelse af blodpropper ved sikringscelleanbringelser med fiksering*).

The Committee is concerned that some of these cases involved prisoners suffering from mental health issues. In particular, at the Copenhagen Police Headquarters Prison, one of these prisoners had been placed in the security cell (for the purpose of avoiding any imminent violence or bringing the prisoner who was violently resisting under control) seven times over a period of around ten weeks (20 July - 26 September 2018) for a total of 165 hours⁶⁹ and fixated on two occasions for periods of approximately 24 hours and 4 hours respectively.

The Committee is also concerned by the duration for which prisoners had been fixated in some cases. At Storstrøm Prison, of the 20 cases of fixation mentioned above, half had been for a period of between three and ten hours (less than three hours in eight cases, and over ten hours – 10 hrs 14 and 17 hrs 45 – in two cases). At the Copenhagen Police Headquarters Prison, of the 13 cases of fixation mentioned above, just under half (six) had been for a period of between three and ten hours (less than three hours in four cases, and over ten hours – 15 hrs 40, 17 hrs 12 and 24 hrs 11 – in three cases).

97. In the CPT's view, agitated prisoners who pose a serious danger to themselves or to others may be temporarily isolated in a calming down cell until they restore behavioural control, only as a last resort when all other reasonable options (such as talking to the prisoners in question) have failed to satisfactorily contain these risks. As regards prisoners displaying mental health issues, they should be transferred to a psychiatric facility where they can receive the necessary care.

In the light of the above, **the CPT recommends that the Danish authorities put an end to the practice of fixation in prisons for security reasons.**

Pending the full implementation of this recommendation, **steps should be taken to ensure that, in all prisons in Denmark, fixation is only used as a last resort to prevent the risk of harm to the individual or others, and only when all other reasonable options would fail satisfactorily to contain those risks. Further, the duration of fixation should always be for the shortest possible time (usually minutes rather than hours); fixation for periods of hours or days cannot have any justification.**

98. Pursuant to Section 66 of the Law on the Enforcement of Sentences, if a prisoner is placed in a security cell but not fixated, a doctor must be called if there are grounds to believe that they are ill or injured, or if the prisoner asks to see the doctor. If a prisoner is placed in a security cell and fixated, the establishment must immediately ask a doctor to examine them; however, the doctor may choose not to do so if he or she believes that "such an examination clearly serves no purpose".

The delegation found that this provision was strictly adhered to by prison staff, who rapidly contacted a doctor. The doctor, however, did not always respond to this call. **In the CPT's view, the doctor should always visit a prisoner placed in a security cell. Moreover, any use of fixation, and its prolongation, should systematically be by order of a doctor or be immediately notified to a doctor, who should visit all prisoners who have been fixated.**

⁶⁹ Durations of placements in security cells: 26 hrs 54, 19 hrs 25, 25 hrs 13, 57 hrs 48, 24 hrs 12, 4 hrs 16 and 6 hrs 41.

99. The CPT delegation was informed that, since the 2014 visit, a number of texts had been adopted or amended to reinforce the safeguards surrounding the use of pepper spray.⁷⁰ Specifically, it was expressly stated that, in principle, pepper spray may be used in confined areas only if the deployment of other means does not seem sufficient to secure the desired outcome. Prisoners should also receive a warning that pepper spray will be used if they fail to comply with the instructions of staff. In addition, after pepper spray has been deployed, the prisoner in question must be offered assistance, and a report drawn up and sent to the Prison and Probation Service. The number of cases in which pepper spray has been used appears to be falling (125 cases in 2017 and 77 in 2018, at national level). These are positive developments.

That said, it emerged that these directives were not always correctly applied. At Storstrøm Prison, for example, one prisoner alleged that he had not been warned before pepper spray was used. Moreover, in the prison's statistics, this case had been recorded under the "use of force" section, with no mention being made of the deployment of pepper spray.

The CPT recommends that the necessary steps be taken to guarantee that the texts governing the use of pepper spray are correctly applied in Storstrøm Prison and indeed throughout Denmark's prisons. It should also be ensured that all cases in which pepper spray is deployed are systematically recorded as such in the establishments concerned and reported (with the sending of a written report) to the Prison and Probation Service.

100. The CPT wishes to emphasise that every instance of use of force and of special means (pepper-spray, handcuffs, shields, etc.) should be recorded in a dedicated register, established for that purpose. The entry should include the times at which the use of force/special means began and ended, the circumstances of the case, the reasons for resorting to force/special means, the type of means used, and an account of any injuries sustained by prisoners or staff. Without such recording, it will be impossible to analyse accurately the overall situation in a prison and to draw the appropriate conclusions as regards use of force/special means.

The delegation observed that there was no such register at the Copenhagen Police Headquarters Prison, that the resort to shields (and pepper spray, see paragraph 99) was not recorded at Storstrøm Prison and that the use of handcuffs was usually not logged in any of the establishments visited. **The CPT recommends that the Danish authorities take the necessary measures to remedy these shortcomings.**

⁷⁰ See, *inter alia*, Decree No. 296 of 28 March 2017 and Circular No. 9315 on the use of force against persons detained in prison establishments.

101. In all the prisons visited, strip searches were carried out on prisoners systematically before and after visits and, as a rule, before their placement in an observation cell. Prisoners had to be completely naked during the search. They also had to squat at the Copenhagen Police Headquarters Prison.

A strip search is a very invasive and potentially degrading measure. To apply it systematically is, in the CPT's view, excessive and unnecessary. Of course, detained persons should always be searched in order to ensure their safety and the safety of others (inmates and prison officers). However, a strip search should be carried out only when there are reasonable grounds to suspect that a detained person may have hidden on him/her items that may be used to harm him-/herself or others or that may be evidence of a crime and when such a search is necessary in order to detect these (an ordinary search being unlikely to result in their discovery). Furthermore, every reasonable effort should be made to minimise embarrassment; in particular, detained persons who are searched should not normally be required to remove all their clothes at the same time (e.g. a person should be allowed to remove their clothing above the waist and dress again before removing further clothing).

The CPT recommends that the Danish authorities take the necessary measures to ensure that, in all Danish prisons, the resort to strip searches is based on an individual risk assessment and carried out in a manner respectful of human dignity.

d. contact with the outside world

102. The CPT's delegation noted favourably the arrangements in place for sentenced prisoners to maintain contact with the outside world. They were entitled to receive, every week, at least one two-hour visit at Storstrøm Prison and one 1.5-hour visit at Odense and Blegdamsvejens Remand Prisons.⁷¹ In practice, longer visits were granted to prisoners who rarely received a visit (for example, at Odense Remand Prison, up to a one-day visit when visitors came from abroad). In addition, at Storstrøm Prison and Blegdamsvejens Remand Prison, sentenced prisoners could apply to receive overnight family visits; the facilities for such visits were of a very high standard (indeed, their design and equipment resembled a private home). Access to the telephone⁷² and correspondence could be considered satisfactory.

103. Remand prisoners were offered at least one hour of visits every week and access to the telephone and correspondence appeared to be satisfactory in the establishments visited. Concerning remand prisoners on "B&B" restrictions, reference is made to paragraph 38.

⁷¹ Two visits per week (of two hours at Storstrøm Prison, and of 1.5 hours at Odense and Blegdamsvejens Remand Prisons) after six months of imprisonment.

⁷² By way of example, at least 20 minutes once a week at Odense Remand Prison and 30-45 minutes once a week at Blegdamsvejens Remand Prison.

e. information for prisoners

104. In the establishments visited, information was provided both orally and in writing to newly-arrived prisoners upon admission. In this regard, it is noteworthy that, at Odense Remand Prison, one staff member (full time post) was in charge of the prisoners' admission and that, at Blegdamsvejens Remand Prison, the induction procedure was phased over two days: information was supplied to prisoners upon their arrival and subsequently (usually the following day), a staff member met them to ascertain that they had received and understood all the information and documents, and to answer any questions.

The information folder received by prisoners upon admission included, *inter alia*, the establishment's daily/weekly programme (in all the establishments visited) and a brochure issued by the Danish Prison and Probation Service entitled "Information about arrest and remand custody" (in the remand prisons). The house rules were distributed only at Storstrøm Prison (in Danish or English⁷³). It is therefore not surprising that many prisoners complained to the delegation that they had not received the house rules or that they had not been informed of amendments made to the house rules (in particular as regards disciplinary offences).

105. By letter of 27 August 2019, the Danish authorities informed the Committee that they were developing a web-based tool to inform newly-arrived prisoners – with images and texts (which could be downloaded in different languages) – about the daily programme (time in cell, outdoor exercise, work, leisure activities, distribution of medicines, phone calls, religious services, etc.) and other practices/procedures (e.g. how strip searches are carried out). The information (or part of it) could be printed out and given to the prisoners. It was expected that the tool would be ready for commissioning in 2020.

Pending the availability of this tool, **the CPT recommends that, in addition to the daily/weekly programmes, the house rules be distributed to all prisoners (both remand and sentenced, in all the prisons in Denmark) upon their admission. These rules should describe in a straightforward manner the main features of the prison's regime, prisoners' rights and duties, complaints procedures, etc., and be translated into an appropriate range of foreign languages. Further, information should be provided (e.g. notices should be posted) each time there are amendments to such rules.**

Further, **the CPT wishes to receive updated information about the information web-based tool developed for prisoners by the Danish Prison and Probation Service.**

⁷³ By contrast, the daily/weekly programme existed in several languages – and even in pictogram format at Blegdamsvejens Remand Prison.

f. complaints

106. The brochures issued by the Danish Prison and Probation Service (“Information about arrest and remand custody” and “Information on serving a prison sentence”) and the internal house rules contained information about the possibilities to lodge complaints – internally (to the Prison and Probation Service or the courts) and externally (to the Parliamentary Ombudsman). However, as mentioned in paragraph 104, these documents were not systematically provided to the prisoners; in addition, there was no mention of the fact that access to the complaints bodies is confidential.

The CPT recommends that information about the complaints procedures available, and the fact that access to the complaints bodies is confidential, be provided to all prisoners (both remand and sentenced, in all the prisons in Denmark) upon their admission.

107. The CPT’s delegation was informed that, in 2015, the Danish Prison and Probation Service had set up a pool of lawyers⁷⁴ to, *inter alia*, give legal counsel and advice to prison management and staff on staff and prisoners’ issues, and review prisoners’ complaints. The goals of this initiative were primarily to provide support and assistance in an area (imprisonment) where new legal issues were continuously emerging due to frequent changes to existing laws and regulations (or the introduction of new laws and regulations), on the one hand, and the speeding up in the processing of the prisoners’ complaints, on the other hand. This is a welcome development.

⁷⁴ At the time of the CPT’s visit, the team was comprising six lawyers (with two of them specifically assigned to the Copenhagen Prisons).

C. Foreign nationals held under aliens legislation

1. Preliminary remarks

108. The delegation visited for the first time Nykøbing Falster Holding Centre and carried out a follow-up visit to the Ellebæk Centre for Foreigners. According to the information received from the authorities, both centres served, at the time of the visit, as the only administrative migration detention centres in Denmark. In line with the country's recent policy, asylum-seekers are, as a general rule, accommodated in formally open centres and are deprived of their liberty only in exceptional cases. The two detention centres visited therefore function primarily as removal centres for migrants, including rejected asylum seekers, who are awaiting deportation. In this context, **the CPT would like to be informed whether administrative detention of migrants is also implemented in prisons.**

109. The legal grounds for the administrative detention of migrants ("non-citizens") are laid out in Sections 35, 35a and 36 of the Aliens Act⁷⁵ (in the following "AA"). Such detention may last up to a total of six and under special circumstances a total of 18 months (see paragraph 124).

According to Section 36 AA, migrants may be detained if non-custodial measures are deemed insufficient to ensure the enforcement of a refusal of entry, expulsion or other removal measure. In particular, migrants who are scheduled to be deported may be detained if they do not co-operate with the police in making arrangements for their deportation. Migrants may further be detained if they refuse to stay at a location designated by the authorities.

Asylum seekers may be deprived of their liberty if, for instance, they fail to appear for an interrogation without reasonable cause. They may further be detained, as a last resort measure, if they significantly obstruct the provision of relevant information for their asylum application or for their return.⁷⁶ Asylum seekers whose asylum application is (or is expected to be) considered "manifestly unfounded"⁷⁷ may also be detained, as a last resort measure, if this is considered necessary to ensure their presence during the examination of their cases.

According to Section 35 AA, a "non-citizen" may further be detained when there are reasonable grounds to suspect that he/she has committed a criminal offence that may lead to expulsion. The provision also allows for detention when a migrant violates a re-entry ban. Finally, under the newly introduced Section 35a, migrants can be detained if they repeatedly breach reporting duties.

⁷⁵ *Bekendtgørelse af udlændingeloven.*

⁷⁶ For instance by concealing information about their identity, nationality, or travel route, or by otherwise not co-operating in obtaining relevant information. Further, according to the new Section 36 (1), asylum seekers may be deprived of their liberty upon their entry to Denmark, for the purpose of registering them and in order to determine their identity as well as the basis for their asylum application.

⁷⁷ Section 53b AA.

110. It is a positive development that according to a new policy, the administrative detention of children or juveniles who were migrants, was resorted to only in very exceptional cases. In neither of the visited establishments were minors being detained at the time of the visit.

Nevertheless, **given their particular vulnerability, the CPT wishes to stress that any form of deprivation of liberty may have a detrimental effect on the physical and mental development and well-being of minors. In this regard, the Committee observes an increasing trend at the European and international level to promote measures to stop immigration detention of minors.**

111. The Ellebæk Centre for Foreigners (hereinafter “*Ellebæk*”) had previously been visited by the CPT in 1990, 2002, 2008 and 2014. It is located 25 km north of Copenhagen, on the premises of former military barracks. With an official capacity of 136, it was holding at the time of the visit 117 detained migrants (from 40 different nationalities), of whom 24 were women.

The large majority of the centre’s migrants had been detained under Section 36 of the AA and were awaiting deportation. According to the information received, these also included a few asylum seekers whose asylum claims were considered “manifestly unfounded” or who were detained for obstructing the provision of relevant information for their claim. In addition, a separate unit (unit 17) accommodated 23 migrants detained under Section 35 of the AA.

In 2018, some 1,100 migrants had been admitted to the centre. The average stay lasted 32 days. However, migrants were frequently held for much longer periods. At the time of the visit, every sixth migrant had been detained at the centre for more than four months and one of them had been there for 12 months.

The establishment comprised five detention units for men (16 East, 16 West, 17, 18 East and 18 West) and one for women (unit 67). Male detainees were, as a general rule, allocated to different units as far as possible according to their nationality. Further, preparations were under way for the construction of two additional buildings until 2020 which should provide for 56 additional places. **The CPT would like to receive updated information on the progress made concerning the construction of the additional accommodation buildings.**

112. Nykøbing Falster Holding Centre (hereinafter “*Nykøbing*”) is located in the centre of the town Nykøbing Falster, on the premises of a former local jail dating back to 1870. It had operated since February 2018 as an immigration detention centre in order to provide additional detention capacity until the completion of the new accommodation buildings at *Ellebæk*.

At the time of the visit, the establishment’s 24 single rooms were fully occupied by male adult migrants awaiting their deportation. Migrants usually stayed at the centre for three to four weeks, but as in *Ellebæk*, it was not uncommon that some of them were detained at the centre for several months. The rooms were spread over two floors which were connected by a central staircase accessible to the detained migrants.

113. From the outset, the CPT would like to emphasise its serious concern about the fact that the material conditions and the regime in the two migration detention centres visited were clearly prison-like and that the prison rules applied to all detained migrants. **This is unacceptable.**

It should be borne in mind that immigration detention is a form of administrative detention of persons who are neither suspected nor have been convicted of a criminal offence. Therefore, any impression of a carceral environment should, as far as possible, be avoided. The emphasis should rather be on minimum internal security regulations and the promotion of normality. The Committee will come back to these precepts in several parts of the present chapter.

2. Ill-treatment

114. At *Nykøbing*, the delegation did not receive any allegations of ill-treatment or verbal abuse by custodial staff. On the contrary, many detained migrants praised the attitude of staff and their interaction with them.

That said, at *Ellebæk*, the delegation received one credible allegation of excessive use of force on a young detained migrant placed in the disciplinary cell, two days before the delegation's arrival at the centre. Apparently, upon placement of the detained migrant at the disciplinary cell, the accompanying officers had slammed the cell door behind him without answering his request for a cigarette. Angered, the detained migrant had then banged against the cell door. He told the delegation that thereupon an officer, accompanied by another colleague, had entered the cell and pushed him so that he fell backwards on the corner of the metal bed behind him, hurting his back. The examination of the migrant by the delegation's doctor two days after the incident was consistent with the allegation made.

In addition, the delegation heard several allegations of verbal abuse by staff, including racist remarks like "monkey".

During the end-of-visit talks, the CPT's delegation informed the Danish authorities (with the detained migrant's approval) of the above-described incident and of the allegations of verbal abuse. By letter of 27 August 2019, the Ministry of Justice subsequently assured the CPT that the cases were being investigated by the Prison and Probation Service. **The CPT would like to be informed about the outcome of these investigations.**

The CPT recommends that the Danish authorities send a strong reminder to custodial staff at Ellebæk Centre for Foreigners that all detained migrants are to be treated with respect and that all forms of ill-treatment, including verbal abuse, are unacceptable and will be sanctioned accordingly. It should further be made clear that if a detainee is agitated, no more force than strictly necessary should be used to bring him/her under control.

115. At neither of the establishments did violence between detained migrants appear to be a major problem at the time of the visit.

3. Conditions of detention

116. As regards material conditions, at *Ellebæk*, two to four men and three to (exceptionally) five women shared rooms which were sufficient in size, measuring between 9 and 30 m². At *Nykøbing*, the detained migrants were placed in single rooms of about 8.5m². As already mentioned in paragraph 113, the material environment at both establishments was very carceral and oppressive, with barred windows, and barred gate partitions between the units at *Ellebæk*. It was obvious that *Nykøbing* had not been significantly refurbished upon its transformation from a local jail into an immigration detention facility. At both establishments, the vast majority of rooms and the (common) sanitary facilities were in a deplorable state of repair. The rooms at *Nykøbing* and the vast majority of rooms in the units for men at *Ellebæk* were severely dilapidated, with graffiti-covered walls, flaking paint and/or crumbling plaster. In the 2nd floor bathroom at *Nykøbing*, an electrical socket was missing and its wiring emerged unprotected from the wall. In addition, several of the common bathrooms in the units for men at *Ellebæk* were filthy and smelly and the benches in the shower rooms at *Nykøbing* were covered with mould.

The accommodation rooms at *Nykøbing* and in the unit for women at *Ellebæk* were furnished with beds, non-lockable wardrobes, shelves, TV sets, tables and chairs (and, at *Nykøbing*, small refrigerators). In contrast, the equipment in the units for men at *Ellebæk* was generally very poor and had further deteriorated since the CPT's last visit. Some rooms were furnished with nothing else but decrepit beds and the remainders of broken wardrobes; nevertheless these rooms were accommodating detained migrants at the time of the visit.⁷⁸

117. To sum up, the material conditions at both establishments were clearly inappropriate for the administrative detention of migrants where the emphasis should be on promoting a sense of normality and where any impression of a prison-like environment should, as far as possible, be avoided. It is unacceptable that migrants are held under the described conditions, which are much poorer than the conditions in any of the prisons visited (see paragraphs 40 to 45). In this context, reference is also made to the observations made in paragraphs 113 and 116.

The CPT calls upon the Danish authorities to ensure that all persons detained under aliens' legislation are afforded material conditions appropriate to their legal situation in centres specifically designed for that purpose. These centres should be maintained in a decent state of repair, clean and adequately furnished, including with benches/chairs, tables and shelves/cupboards. Each person should also have access to lockable space for personal belongings.

A major refurbishment programme is required at both of the establishments visited, failing which they should be taken out of service and replaced by facilities that correspond to these criteria. The CPT would like to be informed, within three months, of the intentions of the Danish authorities in this regard.

⁷⁸ According to the management of the Ellebæk Centre, new wardrobes had already been delivered to the centre some time ago but they had not yet been taken to the accommodation rooms.

118. As regards food, the delegation heard several complaints at both establishments that while detained migrants could opt for meals without pork, a beef-free diet could not be chosen. However, according to the management of *Ellebæk*, a vegetarian meal was always on offer at the establishment. Apart from that, it is regrettable that detained migrants at *Ellebæk* could no longer cook their own food, as had been the case twice a week in 2014. **The CPT trusts that the meals offered to detained migrants take into account their religious requirements and dietary habits. Consideration should further be given to providing detained migrants at least occasionally the possibility to cook their own food.**

119. Detained migrants at both establishments benefited from an open-door regime under which they could freely associate with other detainees (at *Ellebæk* only within the same unit) or stay in their rooms. Notwithstanding this, the CPT must once more recall that conditions of detention for migrants should reflect the administrative nature of their deprivation of liberty with only limited restrictions in place. In this regard, it is regrettable that detained migrants' access to the open air was very restricted, in particular for female migrants at *Ellebæk*. They could only go outside for about 30 minutes per day (three times a day to smoke one or two cigarettes). The situation for at least some of the centre's male migrants' was slightly better as their access to the open air had very recently been raised to a total of one and a half hours per day and was thus similar to the situation for detained migrants at *Nykøbing*.⁷⁹ However, some detained migrants at *Ellebæk* told the delegation that they could still go outdoors for only less than 30 minutes per day.

In the CPT's view, detained migrants should in principle have free access to an outdoor area throughout the day, i.e. at least two hours per day, including during weekends. **The CPT recommends that the Danish authorities take steps at Ellebæk Centre for Foreigners and at Nykøbing Falster Holding Centre to ensure that the detained migrants' daily entitlement to outdoor exercise be increased in the light of the above remarks.**

120. The outdoor exercise yards at *Ellebæk* were not equipped with protection against inclement weather, but the delegation was informed that the management had planned to build shelters. **The CPT trusts that these plans will be implemented without delay.**

121. At *Nykøbing*, detained migrants had no access to a communal room⁸⁰ while at *Ellebaek*, most of the communal rooms were very poorly equipped. The communal room in unit 18 West was literally bare of any furniture or equipment (apart from being severely dilapidated and filthy).

122. On a positive note, about half of the detained migrants at *Ellebæk* were offered some basic paid work (maintenance, packing, glueing refund labels). That said, it is regrettable that barely any other activities were available for the detained migrants at both establishments.

⁷⁹ At *Nykøbing*, the detained migrants could access the yard three times a day for at least 30 minutes each time.

⁸⁰ The former communal room was used as emergency accommodation in the case of overcrowding.

At *Ellebæk*, a dozen of the centre's migrants were involved in education classes in English. Detained migrants could go to a gym or to a library room (for one hour each) several times a week and play football/cricket on a lawn once or twice a week. Once a week, volunteers from the Danish Red Cross visited to meet up to 14 detained migrants at the education premises, offering snacks and talks. No other activities were available for the detained migrants.⁸¹ Regrettably, even the computers at the library room (which detained migrants could previously use for restricted Internet access) had been taken out of service.

At *Nykøbing*, the only organised activity was the weekly visit from the Danish Red Cross volunteers and no work was available for the detained migrants. They could only borrow books and board games/playing cards. The establishment's small gym was not in use at the time of the visit due to repair works.

123. The Committee acknowledges that many persons stay at the establishments visited for rather short periods of up to a few weeks. However, it was not uncommon at both establishments that migrants were detained for several months. The longer migrants are detained, the more meaningful activities should be offered to them.

The CPT therefore recommends that the Danish authorities take steps at Ellebæk Centre for Foreigners and at Nykøbing Falster Holding Centre to ensure that detained migrants are offered a wider range of purposeful activities (e.g. language and IT-classes, gardening, arts and crafts, cookery skills, so called "cultural-kitchens"). To this end, an increased involvement of external service providers such as charity associations and/or NGOs may also be explored. Further, detained migrants should have access to computers with at least basic Internet access and have access to appropriately equipped and clean communal rooms.

4. Safeguards

124. A migrant deprived of his/her liberty under Section 36 must be brought before a court within three days in order for the court to rule on the lawfulness of their detention and its continuation for a maximum of four weeks.⁸² The court may later extend the detention by a maximum of four weeks at a time, as mentioned above for up to a total of six and under special circumstances a total of 18 months. For the detention of migrants under Section 35 and 35a AA, the relevant time-limits from the Administration of Justice Act (*Retsplejeloven*) for remand custody apply.

125. The law further provides that a foreigner deprived of his/her liberty must be assigned legal counsel by the court and that the detention order can be appealed.⁸³ The delegation's findings indicate that these rights were generally respected in practice. It is further positive that a professional interpreter was usually present during the court sessions.

⁸¹ A handicrafts/hobby group had taken place in the past but was suspended at the time of the visit because the staff member in charge was on sick leave.

⁸² Sections 37 (1) and (3) AA.

⁸³ For migrants deprived of their liberty under Section 36, see Section 37 (2) and (3) AA and Chapter 37 of the Administration of Justice Act. For migrants detained under Sections 35 and 35a AA, the corresponding provisions for remand in custody in the Administration of Justice Act apply; see Sections 35 (3) and 35a (2) AA.

As regards the right of access to a lawyer as from the very outset of deprivation of liberty, reference is made to the recommendation made in paragraph 18.

126. The law also provides that migrants deprived of their liberty must receive a detention notification in writing.⁸⁴ However, some of the detained migrants told the delegation that they had not received such a document and many of them complained about a general lack of information on the legal procedures affecting them. Further, detention orders were issued in Danish only.

The CPT would like to receive confirmation that all detained migrants are provided with a copy of the detention order, including a comprehensive statement on the individual grounds for detention and detailed written information of the modalities to lodge an appeal. Migrants who do not understand Danish should further receive in writing at least a summary of the detention order as well as information on the next procedural steps, in a language they understand.

127. Many migrants at both establishments told the delegation that they had received verbal information upon admission about their rights and the establishment's daily routines, and at *Ellebæk*, many had reportedly also been provided with a brochure containing the House Rules, which was available in 13 foreign languages. However, a considerable number of persons, especially at *Ellebæk*, told the delegation that they had not been informed about their rights or the procedures applicable to them (including disciplinary procedures). At *Nykøbing*, no written House Rules existed. Only very basic information on the daily and weekly routines⁸⁵ was posted on a board (pictures with short notes in Danish, English and Arabic).

128. It is particularly regrettable that most detained migrants met by the delegation at both establishments were not aware of any possibility to make a complaint (which might in part explain why very few complaints had been made in recent years). In its 27th General Report, the CPT stressed the importance of effective complaints mechanisms as a fundamental safeguard against ill-treatment.⁸⁶ In particular, they should be accessible, confidential, effective and traceable.

In its letter of 27 August 2019, the Ministry of Justice informed the CPT about the plan to provide migrants detained at *Nykøbing* with an information brochure (in many languages) similar to the one available at *Ellebæk*. It further informed the Committee that the Prison and Probation Service was developing a "picture and web-based tool" for informing detained migrants who speak neither Danish nor English about daily routines and activities. These are welcome developments.

The Committee trusts that the written information distributed to all newly arrived migrants at both establishments in a language they understand will include full information on their situation, their rights and the procedures applicable to them, including disciplinary procedures and information on how to make complaints. Also the addresses of all relevant internal and external complaint bodies should be made available.

⁸⁴ Section 37 (7) AA.

⁸⁵ The information concerned meal times, access to the yard, distribution times for medicines and hygiene products, bed linen change and clothing rules.

⁸⁶ CPT/Inf (2018) 4, paragraph 68.

In addition to the written information provided, all newly arrived detained migrants should:

- **be verbally informed (including by an electronic device), in a language they understand, of all above-mentioned rights and procedures and**
- **be requested to confirm in writing that they have been informed of their rights in a language they understand.**

The CPT further recommends that all detained migrants have free access to locked complaint boxes (which can be opened only by persons specially designated to ensure the confidentiality of the complaints) and that all written complaints be recorded in a complaints register.

Translation and interpretation services should be made available as required.

129. As regards day-to-day communication, staff at *Ellebæk* told the delegation that up to 50 different languages were spoken by the centre's detainees. At both establishments, the personnel conversed with the detainees as much as possible in English and a few staff members also spoke other foreign languages.⁸⁷ The previous practice, that new arrivals were usually accompanied by a police interpreter who could at least partly interpret during the admission procedure, had regrettably been discontinued. As a consequence, fellow detainees were frequently asked to interpret despite the CPT's criticism of such practice in its previous report.⁸⁸ Otherwise, telephone interpretation services were occasionally used.

In this context, it appeared that at least at the larger *Ellebæk* Centre, it was not always practicable to call an interpretation service when an urgent question arose. Reportedly, many conflicts – including those resulting in disciplinary solitary confinement – were caused by misunderstandings between staff and detained migrants due to the lack of a common language. The management of *Ellebæk* pointed out that such tensions could often be avoided if interpreters were regularly present at the centre.

The CPT must reiterate that the use of fellow detainees as interpreters does not only bear the risk of misunderstandings, but it may also infringe confidentiality. Detainees may have very legitimate reasons for not wanting another detained person to act as their interpreter, in particular concerning matters related to their personal situation. **The CPT therefore recommends once again that the use of fellow detainees as interpreters be avoided as a matter of principle. In particular, fellow detainees should not be asked to interpret in matters which might be of a confidential or private nature. Use should be made of professional interpretation services.**

Due to the large number of detained migrants at *Ellebæk* Centre for Foreigners and the obvious language barriers, the Danish authorities may also consider whether it would be feasible that interpreters for the more frequently needed languages are regularly present at the centre.

⁸⁷ E.g. Arabic, French, Farsi and Russian at *Ellebæk* and Serbian/Croatian/Bosnian and German at *Nykøbing*.

⁸⁸ CPT/Inf (2014) 25, paragraph 81.

130. Detained migrants should have every opportunity to remain in meaningful contact with the outside world. The Committee therefore welcomes the fact that detained migrants at both establishments could receive visits in principle every day for about one and a half hours (or more), including on weekends, and that pay phones were freely accessible on the wards. At *Nykøbing*, the detained migrants were also granted one phone call per week free of charge. This is commendable.

That said, at *Ellebæk*, the delegation again heard many complaints about the high cost of the pre-paid phone cards.

As the Committee pointed out already after the 2014 visit, it sees no reason why migration detainees should not have regular access to their mobile phones (for instance in a specifically dedicated room) or be provided with a mobile phone without a camera. Again, the strict security regulations applicable in prisons are clearly not in line with the ethos of an administrative immigration detention facility where the emphasis should be on minimum internal security regulations and the promotion of normality.

Given that most detained migrants received no visits, **the Committee encourages the Danish authorities to extend the possibilities for contact with the outside world, in particular for those who are being detained for prolonged periods. This could be done by allowing them to keep or have access to their mobile phones, as is increasingly the practice in other European countries, or by developing other cost-efficient internet options (such as Voice-over-Internet-Protocol).**

5. Health care

131. The health-care staff at *Ellebæk*⁸⁹ consisted of three full-time nurses present at the centre on weekdays and a general practitioner who came to the establishment twice a week for about four hours at a time. When not present at the centre, the general practitioner could also be consulted by phone on weekdays during office hours. Health-care staff told the delegation that given the high number of detained migrants transiting through the centre (1,100 in 2018, thus an average of three new arrivals per day), their working hours were only sufficient to provide the most urgent care.

The general practitioner made regular use of phone interpretation and sometimes had an interpreter with the required language skills present. However, custodial staff would apparently also occasionally be asked to interpret during medical consultations. The presence of custodial staff during medical interventions is a breach of medical confidentiality.

At *Nykøbing*,⁹⁰ a general practitioner visited the establishment every two weeks for as long as was needed and reportedly made use of phone interpretation whenever necessary. In cases of emergency, a duty doctor (*laegevagten*) or an ambulance were called. There were no nurses working at the centre.

The CPT recommends that at *Ellebæk* Centre for Foreigners and at *Nykøbing Falster* Holding Centre the presence of health-care staff be increased. Furthermore, at *Ellebæk*, steps should be taken to ensure the daily presence of health-care staff (including on weekends).

⁸⁹ It is recalled that the centre has a capacity of 136 places.

⁹⁰ The centre has a capacity of 24 places.

For reasons of medical confidentiality, interpretation during medical consultations should not be provided by custodial staff (nor by fellow detainees, see paragraph 129). Also in this context, the regular presence of interpreters at *Ellebæk*, as suggested in paragraph 129, would be very beneficial.

132. Regrettably, at neither of the establishments visited were newly arrived migrants subject to comprehensive medical admission screening.

Most detained migrants at *Ellebæk* had been met by a nurse for a short informal talk upon their admission while the accompanying police officers were often still present. An appointment for a proper medical examination was usually only made when it was considered necessary for a specific reason. At *Nykøbing*, no medical admission screening took place at all. For those new arrivals who had been prescribed medication, an officer reportedly asked the doctor by phone if the treatment was to be continued. Such a practice is not only inadequate, it is also a breach of medical confidentiality.

As for all persons deprived of their liberty, thorough medical admission screening is indispensable for the timely provision of somatic and mental health care, as well as for the detection and the recording of possible injuries. It is further crucial for identifying vulnerable persons such as *inter alia* victims of torture and persons at risk of self-harm or suicide and for detecting transmissible diseases.

In this context, the delegation was pleased to learn that following a recommendation by the Ombudsman, preparations for the introduction of screening for identifying torture victims were currently under way at a higher administrative level.

133. The CPT recommends that at Ellebæk Centre for Foreigners and at Nykøbing Falster Holding Centre:

- **all newly-admitted migrants benefit from a prompt physical examination carried out in a confidential setting by a doctor or a nurse reporting to a doctor;**
- **during this examination, particular attention be paid to the possible existence of mental disorders, acute and chronic diseases, infections, addiction, injuries, medication needs as well as traumatic disorders and signs of victimisation.**

The Committee would also like to be informed about the progress concerning the introduction of screening for identifying victims of torture.

134. As regards psychiatric and psychological care, the CPT is concerned about possible mental health issues remaining undetected and/or not being addressed adequately. Given the sheer volume of detained migrants transiting through both centres, their personal histories and the stress incurred by the prospect of deportation and sometimes prolonged detention, a number of them inevitably presented symptoms of post-traumatic stress or other mental disorders.

At *Ellebæk*, a psychiatrist visited from a nearby psychiatric emergency centre upon request. In addition, a psychologist visited for four hours per week which apparently allowed him only to offer detained migrants the opportunity to talk, rather than performing diagnostic tests or therapies. That said, it is positive that both psychologist and psychiatrist were usually accompanied by an interpreter.

At *Nykøbing*, a psychiatrist from the Prison and Probation Service attended upon request and made use of phone interpretation whenever needed. However, there was no regular presence of a psychologist.

The CPT recommends that a needs assessment be carried out by the management of both establishments – in co-operation with the relevant health authorities – with a view to ensuring appropriate psychological assistance and psychiatric care to the detained migrants.

135. Regrettably, a number of the medical records examined by the delegation at *Ellebæk* and *Nykøbing* were cursory and lacking detail despite detainees having serious medical issues.⁹¹ **The Committee recommends that the detained migrants' medical records contain detailed diagnostic information as well as an accurate ongoing record of their state of health and of the necessary treatment.**

136. Moreover, there was no procedure in place for reporting allegations of ill-treatment and related injuries to the management and relevant authorities.

The CPT recommends that the Danish authorities take the necessary measures to ensure that the record drawn up after a medical examination of a detained migrant (whether newly arrived or not) contains:

- (i) **a full account of objective medical findings based on a thorough examination (supported by a “body chart” for annotating traumatic injuries),**
- (ii) **a full account of statements made by the person concerned which are relevant to the medical examination (including a description of his/her state of health and any allegations of ill-treatment), and**
- (iii) **the doctor's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.**

In addition, the results of every examination, including the above-mentioned statements and the doctor's observations, should be made available to the detained migrant and his/her lawyer.

⁹¹ For instance, a suicide attempt had been noted in telegraphic style without any description of the mental and physical state of the person concerned. In another case, a detained migrant had been transferred to a non-specified outside facility and returned to the establishment with a prescription for different medication than he had before. Neither the reason for this change nor any further details had been noted in the file.

Moreover, the authorities should ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the detained migrant concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the relevant investigatory authorities, regardless of the wishes of the person concerned.

Health-care staff should further advise detained migrants of the existence of the reporting obligation and also that the forwarding of the report to the relevant investigatory authorities is not a substitute for the lodging of a complaint in a proper form. Health-care professionals (and the detained migrants concerned) should not be exposed to any form of undue pressure or reprisals from staff when they fulfil that duty.

137. The Committee is further concerned that medical confidentiality and medical safety were not strictly observed. Even at *Ellebæk*, where nurses were regularly present, prescribed medicines were distributed to the detained migrants by custodial staff, despite the CPT's criticism of this practice after its previous visit.⁹² At *Nykøbing*, medically untrained custodial staff even prepared the individual doses of medication for each detained migrant before distributing them. They allocated the drugs from the original packages to individual medicine boxes according to medication sheets, apparently without any pharmaceutical or medical supervision. Moreover, at *Ellebæk*, the delegation saw medicine boxes indicating "no name" and "date of birth unknown", with only a picture to identify the patient. **This practice is unacceptable.**

The CPT must reiterate that the preparation of individual doses and the distribution of prescribed medicines by medically untrained individuals may be harmful to the health of the patients concerned and, in any event, is generally incompatible with the requirements of medical safety and medical confidentiality. **It therefore recommends that prescribed medicines, as a rule, only be prepared and distributed by qualified health-care staff.**

Exceptionally, in very small establishments where a daily presence of health-care staff might be difficult to ensure, the CPT trusts that steps will be taken to ensure that individual medicine doses are prepared exclusively by a health-care professional and their distribution respects the precepts of medical confidentiality. Further, any individual medicine box should be marked in such a way as to allow an absolute reliable identification of the patient concerned.

138. At *Nykøbing*, the delegation also saw a large number of individual medical files which dated back to the previous function of the establishment as a remand prison. These individual medical files of remand prisoners previously held at the establishment were openly accessible to any non-medical staff. For reasons of medical confidentiality, **the CPT recommends that these records be removed from the establishment or that they be kept locked away by a member of the health-care staff.**

⁹² CPT/Inf (2014) 25, paragraphs 53 and 80.

6. Other issues

a. staff

139. The custodial staff working at both establishments were regular prison officers employed by the Prison and Probation Service. Regrettably, they had generally not received any special training for working with detained migrants. **The CPT recommends that custodial staff in all detention centres for migrants be carefully selected and receive appropriate training. They should possess well-developed qualities in the fields of inter-cultural sensitivity and be able to recognise if detainees are showing stress symptoms in order to be able to react appropriately.**

140. It is another matter of serious concern that out of the 51 custodial staff posts at *Ellebæk*, only 32 were occupied (62%). As was the case in the prisons visited, the centre's management had serious problems in finding applicants for the vacant posts. **The CPT urges the Danish authorities to redouble their efforts to fill the vacant custodial staff posts at Ellebæk Centre for Foreigners, in order to guarantee security and provide detained migrants with purposeful regime activities.**

b. discipline and security measures

141. The placement of detained migrants in disciplinary solitary confinement is governed by the general prison rules⁹³ and could therefore last for up to 28 days.

At *Ellebæk*, recourse to solitary confinement was made on average five times per month.⁹⁴ It occasionally⁹⁵ lasted for more than 14 days (often for the possession of a mobile phone, see following paragraph), and for up to the legal maximum of 28 days.

The management at *Nykøbing* had had recourse to solitary confinement six times in the 15 months preceding the delegation's visit for up to ten days at a time.⁹⁶ The sanction was implemented in the detained migrant's own room.

142. Regrettably, the application of the prison rules led to the situation that detained migrants who were found in possession of a mobile phone had to be punished by law with at least 15 days of solitary confinement, as was the case for ordinary prisoners. **This is unacceptable**, notably as the Committee considers that detained migrants should have regular access to their mobile phones (see paragraph 130). This shows once again that the application of the strict prison rules is not appropriate for persons held in administrative detention.

⁹³ Sections 37a (1) and 35 (3) AA.

⁹⁴ For a capacity of 136 places and an average stay at the establishment of 32 days.

⁹⁵ On average once a month.

⁹⁶ According to the records examined, in four cases for three and two times for ten days, for a capacity of 24 and an average stay at the establishment of about 25 days.

The Committee recommends that the disciplinary rules applicable to detained migrants be amended in the light of the above remarks. As regards the damaging effect and maximum length of solitary confinement, reference is further made to paragraph 81 and the recommendation made therein.

143. As regards the procedure for disciplinary solitary confinement, it is a matter of concern that detainees at *Nykøbing* were not informed in writing about the possible disciplinary sanctions and the disciplinary procedure in force, as no house rules or other information material on the matter was available to the detained migrants. **Reference is made in this respect to the comment made in paragraph 128.**

144. At both establishments, the detained migrants concerned were usually heard prior to the disciplinary sanction and the written decision included the reasons for the measure as well as information on appeal avenues. However, the written decisions were only available in Danish despite the fact that most of the detained migrants did not understand that language.

The CPT would like to receive confirmation that detained migrants are always informed, in a language they understand, about the reasons for solitary confinement imposed on them and about the possibilities to appeal a disciplinary decision. Whenever necessary, use should be made of professional interpretation services. Further, the detained migrants concerned should always receive a copy of the decision in order to facilitate the filing of an appeal.

145. The Committee is also concerned that detained migrants held in disciplinary solitary confinement at both establishments were not systematically seen by a doctor or a nurse promptly after their transfer to the isolation cell. As recommended by the CPT in the past, **health-care staff should always visit the person immediately after placement in isolation and thereafter, on a regular basis, at least once per day. In order to be able to take on these additional tasks, the presence of health-care staff at both establishments needs to be reinforced (see the recommendation made in paragraph 131).**

146. According to the information gathered, detained migrants placed in disciplinary solitary confinement at *Ellebæk* were not always granted daily access to the open air, in particular during the first days of their placement. Further, access to the yard was apparently often only given for “the length of a cigarette” (up to three times a day). **The CPT recommends that the Danish authorities take steps at the Ellebæk Centre for Foreigners to ensure that detained migrants placed in solitary confinement are granted at least one hour of access to the open air every day (including on weekends). The legislation should be amended accordingly.**

147. The delegation further received allegations that detained migrants had no access to a telephone while being held in solitary confinement. If proven true, **this shortcoming should be remedied.**

148. Further, the solitary confinement cells at *Ellebæk* were dirty and in a poor state of repair with large drill holes in the wall, crumbling plaster and/or a stained floor. **The CPT recommends that these shortcomings be remedied.**

149. *Ellebæk* also had two observation rooms which were used for accommodating detained migrants who were agitated, suicidal or threatening to self-harm. According to the register, such placements took place four or five times a month and lasted between several minutes and 29 hours.

Regrettably, there was no practice of health-care staff promptly examining the detained migrants concerned upon their placement in the observation room and visits by health-care staff generally depended on the decision of the custodial staff in charge. Furthermore, it appeared that custodial staff usually remained present during the visits by health-care staff. In the Committee's view, such presence infringes medical confidentiality, is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality.

During their placement, detained migrants could call custodial staff by operating an alarm bell. According to the management, the custodial staff checked on the detained migrants concerned in any case about every 15 minutes.

The CPT recommends that steps be taken at Ellebæk Centre for Foreigners and, where appropriate, in other immigration detention facilities, to ensure that a member of the health-care team always visits persons placed in an observation room immediately after the placement and at regular intervals until the placement ends. These visits should be systematic and should never depend on the assessment of custodial staff. Further, any person who remains mentally disturbed or suicidal after several hours must be clinically assessed and, if necessary, transferred to a mental health establishment.

Steps should also be taken to ensure that all medical examinations are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of custodial officers.

150. The two observation rooms were in need of refurbishment and the adjacent toilet in the corridor outside the rooms was dirty. **These shortcomings should be remedied.**

151. The delegation was also informed that, due to the lack of suicide-proof clothing, detained migrants at risk of suicide were sometimes placed entirely naked in an observation room. In the view of the CPT, such a practice could be considered to amount to degrading treatment. **The CPT urges the authorities to stop this practice. It recommends that persons are never placed naked in a room and that those at risk of suicide be always provided with (rip-proof) clothing appropriate to their specific needs.**

152. Detained migrants at *Nykøbing* were occasionally subjected to full strip-searching upon individual risk assessment. At *Ellebæk*, many detained migrants told the delegation that they were obliged to strip entirely naked upon their admission and occasionally after having played football/cricket outdoors.

The CPT must recall that a strip-search is a very invasive – and potentially degrading – measure. Therefore, resort to strip-searches should be based on an individual risk assessment. In order to minimise embarrassment, persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and to get dressed before removing further clothing.

The Committee recommends that the Danish authorities ensure that these precepts are effectively implemented.

D. Psychiatric institutions

1. Preliminary remarks

153. The delegation visited the new Secure Department of Slagelse Psychiatric Hospital. In addition, it paid a short targeted visit to two of the hospital's civil psychiatric wards (SL 2 and SL 3) in order to examine the legal procedures and safeguards in the context of involuntary hospitalisation.

154. The Secure Department of Slagelse Psychiatric Hospital (*Sikringsafdelingen*, hereinafter "Sikringen") receives patients who are considered too dangerous to be placed in other closed forensic or civil psychiatric wards. It is the only hospital of its kind in Denmark. The establishment had previously been located in Nykøbing Sjælland in the north of Zealand, where it had been visited by the CPT in 2002, 2008 and 2014. In 2015, Sikringen moved with its patients and most of its staff to the newly designed complex in Slagelse. The patients are accommodated in three closed mixed-gender wards each with ten places, which were fully occupied at the time of the visit. Three of the patients were women and all the patients had been diagnosed with schizophrenia. The average stay at the establishment was eight years, but some patients stayed much longer.⁹⁷

155. At the outset, the CPT wishes to stress that it gained a very positive impression of Sikringen. The department appeared to be well-managed, providing a calm and caring environment for patients, and staff seemed to be very committed. In particular, the delegation received no allegations of ill-treatment or verbal abuse of patients by staff and many patients spoke very positively about the personnel in all three wards. However, as regards prolonged application of belt restraint, reference is made to paragraph 179.

156. The delegation received no allegations and found no other indications of inter-patient violence.

2. Legislative and countrywide developments in the field of psychiatry

157. As regards relevant legislative developments, the Danish Mental Health Act⁹⁸ (hereinafter "MHA") as well as the "Executive Order No. 1338 on the use of coercion and deprivation of liberty on psychiatric wards" have been significantly amended since the CPT's 2014 visit. The main changes relevant for the CPT's mandate concern the safeguards surrounding belt restraint and the special restraint measure of "walking restraint" (see paragraphs 179 and 170).

⁹⁷ One patient had been held at Sikringen for 36 years.

⁹⁸ Consolidation Act No. 1160 of 29 September 2015.

158. For many years, the CPT's major criticism in the psychiatric field in Denmark has been the very high frequency and long duration of instances of restraint of psychiatric patients, in particular mechanical restraint (fixation with abdominal belt and straps), which had steadily increased over many years and reached all-time peaks in 2012 and 2013. The Danish Government, acknowledging the problem, has for several years now worked towards reducing recourse to coercion in psychiatry.⁹⁹ In 2014, it adopted an Action Plan which included, amongst other things, the overall goal of the reduction in the percentage of hospitalised patients subject to coercion on the one hand, and of the total number of instances of mechanical restraint over 48 hours on the other, each by 50% by 2020.¹⁰⁰ In addition, six experimental belt-free units were to be created in psychiatric hospitals. In order to monitor the goal of the 50% reduction in coercion, the Government had further formed a "Task Force for Psychiatry".

The CPT acknowledges the considerable efforts made by the Danish authorities over the recent years to reduce recourse to coercion and in particular belt fixation by serious management involvement, the provision of additional health-care staff, increased staff training (e.g. in de-escalation techniques and communication), improved patient involvement, enhanced activities for patients and through the creation of belt-free units in psychiatric hospitals. It is particularly commendable that the total number of instances of belt restraint, the total number of prolonged belt fixations (over 24 and over 48 hours) and the percentage of patients subject to belt restraint have now been reduced significantly at the national level.¹⁰¹

However, according to the national statistics on use of restraint, it appears that belt restraint has at least partly been replaced by other forms of coercion, mainly by "chemical restraint" (i.e. forcible administration of medication for the purpose of controlling a patient's behaviour).¹⁰² The Danish Health and Medicine Agency (*Sundhedsstyrelsen*) expressed its serious concerns about this "substitution effect" and reiterates its genuine commitment to achieve a long-term reduction in all means of coercion in psychiatry through a continued management focus on that goal, aimed at a long-term "cultural change in psychiatry".¹⁰³

⁹⁹ See also the CPT's 2014 report CPT/Inf (2014) 25, paragraph 115, and the Danish Government's response CPT/Inf (2015) 16, pages 69-70.

¹⁰⁰ The Danish Government's Action Plan (in Danish): http://www.sum.dk/Aktuelt/Nyheder/Psykiatri/2014/Maj/~media/Filer%20-%20Publikationer_i_pdf/2014/Ligevaerd-psykiatriplan-maj-2014/Psykiatri_handlingsplan-netudgave.ashx. The objective of reduction in the recourse to coercive measures was subsequently laid down in partnership agreements between the regions (managing the hospitals). The Ministry of Health and the Government had allocated 50 million DKK (6.7 million Euros) per year for these partnerships. Another 74 million DKK had been allocated per year (in 2014-2017) for the establishment of belt-free units in psychiatric hospitals.

¹⁰¹ The total number of instances of belt restraint has fallen by 35% from 5,688 instances per year (in the reference periods 2011-2013) to 3,692 instances in the reference period 2017/2018. In the same period, the total number of belt fixations over 48 hours fell by 40% from 777 instances per year to 451 instances. The percentage of hospitalised patients subject to belt restraint fell at the same time from 7.7 % of all hospitalised patients to 5.1%.

¹⁰² The use of chemical restraint has increased on the national level by 30% (from 7,133 instances per year in the reference periods 2011-2013 to 9,241 instances in 2017/2018). Thus the reduction of instances of belt restraint by 1,996 instances has statistically been more than fully outweighed by an increase in chemical restraint by 2,108 instances. However, it should also be taken into account that the number of hospitalised patients has increased since 2011.

¹⁰³ See their 2019 report on monitoring coercion in psychiatry, pages 6 to 8: <https://www.sst.dk/da/udgivelser/2019/monitorering-af-tvang-i-psykiatrien-januar-december-2018>.

The CPT further remains critical that there are still many instances of belt restraint for longer than 24 and even 48 hours. According to the national statistics, there were 408 instances per year of belt fixation for 24 to 48 hours and 439 instances per year of belt fixation for more than 48 hours in the reference period 2017/2018. It is particularly alarming that the delegation again received reports that psychiatric patients had been fixated to a bed for several months in different psychiatric hospitals pending their transfer to Sikringen. In two cases, the patients had apparently been under belt restraint for 10 and 13 months.¹⁰⁴ This is completely unacceptable. Not surprisingly, one of these patients told the delegation that he required training in order to walk again properly after having been released from the belts. **The CPT recommends that the Danish authorities take the necessary steps to ensure that patients are never mechanically restrained due to the lack of places at a secure psychiatric hospital.**

In more general terms, the Committee strongly recommends that the Danish authorities continue their efforts to reduce recourse to means of restraint in psychiatric hospitals, and instances of prolonged belt fixation in particular. As pointed out after the CPT's previous visits, fixating psychiatric patients for days on end cannot have any justification and may amount to ill-treatment.

Further, the utmost care should be taken to ensure that a reduction in recourse to belt fixation is not substituted by a generally increased use of other, similarly or more coercive means of restraint (notably chemical restraint).

3. Material conditions

159. The delegation was impressed by the excellent material conditions at Sikringen which were clearly non-carceral and could serve as a model for other secure psychiatric establishments.

The patients were accommodated in specially designed bright and clean single rooms of sufficient size (19m²) equipped with built-in furniture (bed, wardrobe for personal belongings, desk, TV), a chair and a call-bell. Unlike the previous premises, the rooms had integrated bathrooms (measuring an additional 4m²). Special provisions had also been made to ensure that the rooms and bathrooms were free of ligature points, e.g. the shower head was slanting downwards and any hooks were designed to break under heavy weight. Further, the patients were allowed to personalise their rooms and wear their own clothes.

The wards also had pleasant bright communal areas with sofas, armchairs, TV-sets, table-tennis and table-football tables and large windows to the staff office. The establishment further comprised a spacious well-equipped gym, a modern and bright sports hall and several other rehabilitation and therapy rooms. In addition, each ward had a smaller fitness room.

¹⁰⁴ In 2015-2016 and 2018.

It is a very welcome improvement that the establishment had more than one outdoor yard. In addition to a very large yard used by all three wards (for bicycling, other sports and barbecues) each of the wards had its own outdoor areas: one spacious green yard with a pavilion with benches and a specially secured yard covered with mesh wire which was also equipped with a bench and a shelter against inclement weather. Furthermore, each ward had a smaller inner yard which was often freely accessible from the corridor, and one room per ward had its own small outdoor area of about 5m² for patients who were not considered able (or not willing) to use one of the yards. Regarding patients' access to the yards see also paragraph 165.

Both patients and staff told the delegation that the new conditions, in particular the integrated bathrooms (which terminated the use of urine flasks at night) and the more frequently accessible outdoor yards, were an immense improvement for the patients. Staff reported several cases where the change had clearly helped alleviate patients' illnesses, leading to a considerable reduction in their medicine doses, and many of the patients who had already been in the previous Sikringen emphasised that they were feeling much better under the new conditions. This is very positive.

4. Staff

160. Staffing levels at Sikringen had been raised considerably since the CPT's visit in 2014 and appeared to be appropriate for the 30 patients and the care required. The staff complement comprised two psychiatrists as senior head doctors (equivalent of 1.5 full-time posts) as well as 12 full-time junior doctors, two of whom were also fully qualified psychiatrists.

In addition, the delegation was informed that the nurses¹⁰⁵ together covered 16 full-time posts, the educators seven, the physiotherapists two and the assistant nurses and care-givers together 56. In addition, a part-time music therapist worked 20%. The post of a psychologist was vacant at the time of the visit and efforts were being made to fill the post. In the meantime, a psychologist from the forensic wards of the hospital regularly visited Sikringen, mainly for forensic assessments. Further, the Committee welcomes that while Sikringen had previously employed mainly male staff, women now presented 30 % of the total staff.

Nursing staff worked in three shifts.¹⁰⁶ On weekdays during day shifts, at least one nurse was present on each ward, together with seven or eight other staff members (assistant nurses, educators and care-givers), one physiotherapist and one security guard (see below). An additional head nurse was in charge of all three wards at Sikringen. In the evenings, five nursing staff and one security staff were on duty on each ward. On weekends, at least four nursing staff and one security guard were present (day and evening shifts). During all night shifts, when the rooms were locked, one male assistant nurse and one security staff member were in charge of each ward. At all times, one additional nurse was in charge of Sikringen and the hospital's four forensic wards.

The two head doctors were present during normal working hours on weekdays. During evening and night shifts, as well as on weekends, one junior doctor was in charge of all three wards and one psychiatrist (from the hospital's forensic department) was available on call.

¹⁰⁵ All nurses had received special preparatory training for Sikringen and some of them were psychiatric nurses.

¹⁰⁶ From 7 a.m. to 3 p.m. (day shift), from 3 p.m. to 11 p.m. (evening) and from 11 p.m. to 7 a.m. (night).

161. As was the case at the previous location, Sikringen employed security staff through a private security firm. The 22 security guards wore civilian clothes and were not involved in nursing tasks, but supported other staff in daily chores such as serving food and waste disposal. It was emphasised that they were not in “primary contact with the patients”, thus another staff member was always present as a main contact person when one of them stayed with or accompanied a patient. The hospital staff continued to be pleased with them and the delegation did not hear any complaints from patients about their presence on the wards.¹⁰⁷

162. The CPT welcomes that all staff working at Sikringen (including the security guards) underwent eight times a year an obligatory de-escalation training for practicing how to react appropriately to violent situations.

5. Treatment

163. The delegation gained a very favourable impression of the treatment of patients at Sikringen which appeared to be professional and caring.

164. Upon their admission, patients received provisional treatment plans within 24 hours and more comprehensive plans within their first week of hospitalisation. The plans were reviewed by the head doctor in the case of major treatment changes and in any case every four weeks.

165. More than half of the patients, those who were not subject to the special restraint measure of locking patients in their room (see paragraph 174), could freely move and associate on their wards for most of the day.¹⁰⁸ They had access to the outdoor yards at least four times a day for about 30 minutes at a time, either with other patients, alone or accompanied by staff, depending on their mental and physical state.

The general offer of activities for the patients, complementing their pharmacological treatment and fostering their rehabilitation, had also considerably improved. According to individual treatment plans and the patients’ own wishes, they could frequently access the large gym, the sports hall or the fitness rooms on the wards to participate in various individual and group sports (e.g. indoor cycling, running, football, floorball). Some patients also had regular sessions with the physio- and/or the music therapist and two or three patients were visited at least once per week by an external teacher who taught them Danish or English. Staff further practiced with several patients how to do daily chores like cleaning and laundry and occasionally cooked with them. A few patients were also regularly granted accompanied leaves to the grounds around the hospital, to a nearby forest or to a nearby small town.

¹⁰⁷ According to the information received, each security guard had been carefully selected by the security firm together with the head nurse. They had received a three-week induction training course to prepare them for the special conditions at Sikringen (e.g. training on psychiatric diseases).

¹⁰⁸ Their rooms were only locked at night for eight and a half hours, during the lunch-time and on Mondays for one and a half hours during the weekly staff meeting.

166. It is a commendable practice that every patient had at least one contact person amongst the staff members who would as far as possible personally support and accompany the patient (e.g. cook with him/her or spend time with the patient in a therapy room).

167. The arrangements for patients' contact with the outside world were also very good. Patients could make free telephone calls from their own rooms twice a day (for 15 to 20 minutes each time) and could receive phone calls without restriction. Further, there was no limitation on the frequency of visits which could take place every day and could last up to four hours.

6. Seclusion and other means of restraint

a. special restraint measures at Sikringen

168. The Mental Health Act provides for two special restraint measures which can be employed exclusively at Sikringen, namely "walking restraint"¹⁰⁹ and "locking of patients"¹¹⁰ (in either their own or in a "zero-stimuli room").¹¹¹ In this context, it is commendable that outside Sikringen, seclusion of psychiatric patients is not permitted.

169. The possibility to apply "walking restraint" was introduced by law in 2010. It entails using a special belt with straps of adjustable length attached to the patient's wrists (and if necessary also to the ankles). This allows the patient to walk around and move his/her arms to a limited degree. If used without ankle straps, the belt can reportedly be made invisible by being hidden under a wide coat.

170. By the 2015 amendments to the MHA, the legal provisions surrounding the use of walking restraint had been slightly amended. Some safeguards which had been considered necessary in the first years of the application of the new measure have been abolished or mitigated in the meantime.¹¹²

According to the law, walking restraint can still only be used as an alternative to long-term isolation or prolonged mechanical restraint.¹¹³ Its application requires a formal request by the department's head doctor (or his/her deputy) and a subsequent authorisation by the Danish Health and Medicine Agency. The decision on the request is taken by a special expert board¹¹⁴ of the Danish Health and Medicine Agency within 14 days, after examination of the patient by one of the board's psychiatrists. The Danish Health and Medicine Agency and its special expert board must further visit Sikringen once a year in order to supervise the application of the measure. On this occasion, the Danish Health and Medicine Agency can terminate the measure with immediate effect.

¹⁰⁹ Section 18c MHA.

¹¹⁰ Sections 18a and 18b MHA.

¹¹¹ See also CPT/Inf (2014) 25, paragraphs 143, 145 and 146.

¹¹² For the procedure in place in 2014, see CPT/Inf (2014) 25, paragraph 143.

¹¹³ Section 18c (1) MHA.

¹¹⁴ The board is composed of one psychiatrist appointed by the Danish Health and Medicine Agency, four psychiatrists appointed upon recommendation of the Danish Psychiatric Society (*Dansk Psykiatrisk Selskab*) and one member nominated by the Danish Disabled People's Organisations, Section 18c (4) MHA.

As with any coercive measure, patients could lodge complaints against the application of the walking belt to the Patients Complaints Board (*Psykiatriske Patientklagenævn*). The board decided upon complaints within one week at the latest and had the power to overrule the hospital's decisions. The patient and his/her patient adviser had the right to be heard by the board whose decisions could subsequently be further challenged before a Patients Appeals Board (2nd instance) and before a court.¹¹⁵

Since 2015, the permission from the Danish Health and Medicine Agency to apply walking restraints to a particular patient was no longer limited in time. The need for continued application of the walking belt had to be reviewed by the head doctor or his deputy "at appropriate intervals and at least once a month". In this context, it is a matter of concern for the CPT that the law no longer provides for an additional regular review of the measure by a psychiatrist independent of the department.¹¹⁶

171. At the time of the visit, walking-restraint was regularly applied to five patients¹¹⁷ usually during association and outdoor walks with other patients. During the use of the walking restraints, patients were always accompanied by a specially assigned staff member (*fastvagt*), as required by the law.¹¹⁸ According to the documentation examined, the monthly reviews by the treating psychiatrists of the continued need for the walking belt were thorough.

172. The delegation gained the impression that the use of walking restraint as an alternative to other means of restraint was generally handled well at Sikringen and with as much respect for patients' dignity as possible.¹¹⁹

That said, in order to reinforce the supervision of the continued need for the measure in each case, **the CPT recommends that the weekly review by a psychiatrist who is not employed at Sikringen be re-introduced. Further, the utmost care should be taken that "walking-restraint" is not applied as a substitution for more modern, professional and less restrictive methods to control violent behaviour.**

173. The CPT would further like to highlight the case of one particular patient using a walking belt. After having spent many years inside the Secure Department, the patient had been considered to be fit and stable enough for an accompanied walk to the nearby town centre, with the walking restraint hidden by her coat. Staff told the delegation that such an excursion would be a big achievement for the patient concerned and also the department's director had clearly supported the plan for an excursion. It is very regrettable that the patient nevertheless had to be denied the excursion for the sole reason that the law did not permit the application of the walking restraint outside the Secure Department's grounds. This should be remedied. **The CPT would like to receive the comments of the Danish authorities on this matter.**

¹¹⁵ Section 37 MHA.

¹¹⁶ The respective Section 43 of Executive Order No.1338, providing for a weekly review by an independent psychiatric expert, had been repealed in 2015.

¹¹⁷ Four of them had used walking restraints since the introduction of the measure in 2010. Since then, the belt had also been applied to two additional patients, but those authorisations had already been terminated.

¹¹⁸ Section 18c (3) MHA.

¹¹⁹ Apparently, at least some of the patients considered that the walking belt improved their quality of life, in particular as it enabled them to socialise with other patients.

174. Out of the 30 patients at Sikringen, 14 patients were permanently¹²⁰, or for a major part of the day, locked in their own rooms.¹²¹ Some of them had been subject to that measure for several years.

It is a considerable improvement to the situation found in 2014, that the patients concerned now generally had access to the outdoor yards several times a day, for one to two hours in total, some of them together with other patients. Some were also allowed to regularly associate with other patients in the communal rooms and several of them had training sessions with the music- or physio-therapist up to four times a week. Locked-up patients could further use the telephone and receive visits (in the visiting room) as could any other patient at Sikringen. As was the case in 2014, staff offered human contact to each of the patients concerned every hour for about ten minutes (during the daytime).¹²²

175. The measure of locking a patient in his/her room was decided by one of the two head doctors and formally reviewed by him/her at least once a month. Apparently, at least some patients were in practice met more frequently (e.g. once a week) by the head doctor who subsequently reconsidered the need for the continued locking of the room after discussion of the patient's state during the weekly staff meeting. This regular formal review is a welcome development in line with the CPT's recommendation made in 2014.

176. The Committee would like to highlight the case of one patient who had been continuously locked in his room for two months preceding the CPT's visit because he was considered extremely violent and unpredictable.¹²³ Unlike the other locked-up patients, he was not allowed to access any of the department's yards, but could only use the 5m² large outdoor area attached to his room (which was separated from a green space by a netting wire). The patient had been allowed to leave his room only about twice per month for meetings with his guardian representative (*bistandsværge*) in the visitor's room. Apart from that, the staff's hourly contact offers and the weekly talk with the senior consultant (both usually through the hatch of his door), the only direct human contact he had was when a nurse came to his room every two weeks to give him a depot injection. Due to the special security considerations in his case, it had been decided that at least four staff members were needed to hold the patient whenever he met directly with another person (including the nurse and the doctor). According to staff, this had proven to be a very uncomfortable practice, especially for the patient himself, and direct encounters were therefore avoided as much as possible.

The CPT recognises the difficulties that the establishment faces in dealing with its particularly challenging patient population. It highly appreciates the progress made in enabling the patients concerned to access the yards frequently and for some of them also to associate with other patients. Nevertheless, the Committee must emphasise that excluding patients from association, in particular over long periods, is likely to have a detrimental effect on their mental health. **It therefore strongly encourages the department's management to continue their efforts to motivate and engage with the locked-up patients and to provide them with appropriate human contact.**

¹²⁰ Whenever not involved in out-of-room activities.

¹²¹ It should be noted that two of these patients had asked to be locked up as they were not interested in associating with other patients. Nevertheless they were registered as subject to the restraint measure of locking patients in their room and thus benefited from the respective safeguards.

¹²² As in 2014, many patients regularly declined that offer.

¹²³ Two months earlier, the patient had violently attacked a staff member with punches. According to his file, he had not distanced himself from the attack during the reviews of the decision to lock him in his room by the patient complaints board.

As regards the above-mentioned case, **the Committee invites the department's management to be extremely cautious when imposing and reviewing the described harsh regime. If it is exceptionally considered necessary as a last resort measure, it should only be applied for the shortest possible time.**

177. Apart from the measure of locking patients in their own room, patients could under certain conditions also be held in seclusion in a zero-stimuli room.

One zero-stimuli room existed on each of the three wards. The rooms were spacious, bright and painted all white, equipped only with a bed (fixed to the floor, with cotton belts for up to five-point fixation), a call bell and a clock, and had a sanitary annexe with a toilet. Patients placed in a zero-stimuli room could be supervised through large windows (two-way transparent) from an adjacent office space.¹²⁴

Placement in the zero-stimuli room was always decided by a head doctor. With a few exceptions, most patients were taken to the zero-stimuli room upon their admission (the majority of them had a special dangerousness-decree¹²⁵ from the Ministry of Justice for placement exclusively at Sikringen and all of them had been considered to be too violent to be accommodated in other psychiatric hospitals). According to the management, they were held there for a few days to up to a week (usually without being fixated to the bed) until they were considered calm enough to stay in a normal room. Patients could also later be placed in the zero-stimuli room when they were agitated.

Since the beginning of 2018, placements of newly arrived patients had lasted up to four days, but at least one patient had been secluded for five days following a violent incident. Regrettably, neither the department's management nor the Danish Health and Medicine Agency were able to provide the delegation with complete numbers concerning the frequency and length of such placements, due to the absence of a restraint register at the department and temporary problems with the Agency's electronic database. Reference is made in this respect to the recommendation made in paragraph 181.

The Committee acknowledges the fact that Sikringen accommodates a very specific patient population, many of whom display particularly challenging behaviour. It nevertheless has serious doubts as to whether seclusion of patients for several days is justifiable.

The CPT therefore urges the management of Sikringen to use seclusion only as a measure of last resort, apply it for the shortest possible time (usually minutes rather than hours), and immediately terminate it when the reason for its use has ceased. If, exceptionally, for compelling reasons, a patient is secluded for more than a period of hours, the measure should be reviewed by a doctor at short intervals. Consideration should also be given in such cases to the involvement of a second, independent doctor.

¹²⁴ The sanitary annexes were covered by a CCTV camera, which excluded the toilet areas. These CCTV cameras were the only ones inside Sikringen.

¹²⁵ Section 40 MHA.

178. After the first 24 hours of placement in the zero-stimuli room, patients were continuously supervised through the window of the adjacent office by a staff member (*fastvagt*). However, the delegation was surprised that patients were apparently not always permanently supervised *during* the first 24 hours of placement,¹²⁶ when the risk of suicide and self-harm is high. If the patient was not under permanent supervision, a staff member would reportedly visit him/her every hour.

In the CPT's view, every patient held in seclusion should be under continuous direct personal supervision from the very outset of the measure (so that the patient can fully see the staff member and the latter can continuously observe and hear the patient). **The CPT recommends that the necessary steps be taken, including at legislative level, to ensure that these precepts are implemented in practice.**

b. other means of restraint

179. According to the documentation received, mechanical restraint with fixation belts had been used at Sikringen 23 times in 2018 on four different patients (and in addition for half an hour twice a day on one particular patient for changing his ileostomy pouch¹²⁷). The instances usually lasted between 25 and 90 minutes. However, in two cases the belts had been applied for 12 and 13 hours and in one case even as long as six and a half days. During the first three months of 2019, patients had been mechanically restrained for extended periods in five instances, namely for 17 hours and for two, three, four and five days respectively.¹²⁸

At Sikringen, belt restraint was generally only applied in the zero-stimuli room¹²⁹ upon the decision of a head doctor (psychiatrist) or exceptionally by a nurse immediately requesting the presence of a doctor. While being restrained, patients were permanently supervised through the window of the adjacent office by a staff member. This is positive.

The need for continuation of belt restraint was reviewed according to the new legal provisions by a head doctor at least three times per day and, in addition, by a second psychiatrist from outside the department¹³⁰ 24 hours, 48 hours and four days after its start.¹³¹ However, as criticised by the CPT already in 2014,¹³² the law still provides that in the case of disagreement between the treating and the outside doctor as to the need for continuing the belt restraint, the treating doctor's opinion always prevails. The Committee must reiterate its view that such a disagreement is a serious matter and should lead to a referral to a third authority for a decision. Independent scrutiny should not rely on the outside doctor's or the patient's ability and willingness to appeal.

¹²⁶ Only after 24 hours was the placement considered to be a restraint measure with special reporting obligations to the Danish Health and Medicine Agency applying.

¹²⁷ The patient had a long history of sudden, unexpected violent outbursts and physical attacks due to paranoid ideas and had on such occasions injured patients and staff.

¹²⁸ All instances of prolonged restraint in both years concerned the same three patients.

¹²⁹ An exception to this rule was the patient who had his ileostomy pouch changed twice a day while being restrained in his own bed.

¹³⁰ According to the law, the psychiatrist was only considered independent if he/she was not employed by the same hospital department, was not responsible for the patient's treatment and was not in a subordinate relationship with the doctor in charge.

¹³¹ Section 21 (5) to (7) MHA.

¹³² CPT/Inf (2014) 25, paragraphs 123 and 125.

The CPT once more recommends that mechanical belt restraint always be used for the shortest possible time (usually minutes rather than hours), and always be immediately terminated when the reason for its use has ceased. As emphasised above, applying mechanical restraint for days on end cannot have any justification and could, in the CPT's view, amount to ill-treatment (see paragraph 158).

Further, in cases of disagreement between the treating and the outside doctor about the prolongation of belt restraint, the matter should be automatically referred to an independent third authority for decision.

180. From interviews with staff and patients, the delegation gained the impression that chemical restraint was not frequently resorted to at Sikringen. Due to the absence of a restraint register (see following paragraph) and the Danish Health and Medicine Agency's temporary problems in retrieving the relevant data from their electronic database, the delegation could regrettably not obtain precise figures concerning that measure. Once the data are available, **the CPT would like to be informed about the frequency of recourse to chemical restraint at Sikringen in the years 2018 and 2019.**

c. registration of restraint measures

181. Every instance of placement in the zero-stimuli room, walking restraint, belt restraint, chemical restraint and locking-up of patients in their rooms was accurately recorded in the patient's personal file and, if lasting more than 24 hours, was also reported to the Danish Health and Medicine Agency. This is commendable. However, at the time of the visit, there was no restraint register available at Sikringen.

Experience has shown that a specific restraint register can provide hospital management with an oversight of the extent of instances of restraint and may also enable measures to be taken to reduce their occurrence. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by patients or staff. Patients should be entitled to attach comments to the register, and should be informed of this entitlement; at their request, they should receive a copy of the full entry. **The CPT recommends that such a restraint register be established at Sikringen.**

7. Safeguards in the context of involuntary hospitalisation

182. In Denmark, involuntary hospitalisation (hereinafter referred to as “civil” placement or 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 to others.¹³³

The decision concerning involuntary civil hospitalisation is taken by the head doctor of the psychiatric department involved, based on a medical certificate drawn up by a doctor independent of the establishment.¹³⁴ Patients may appeal against the placement decision (or its continuation) to the Patients Complaints Board and subsequently to the Patients Appeals Board and a court in the same way as against the application of any coercive measure (see paragraph 170).

183. Regrettably, the law still provides that a voluntary patient’s request for discharge must be responded to by the head doctor only “as soon as possible and at least within 24 hours”.¹³⁵ As stated by the CPT in the past, the rule should be that a voluntarily admitted patient is either able to leave the hospital immediately upon his/her request or, if the conditions for involuntary retention are met, the procedure for involuntary hospitalisation is initiated. **The CPT reiterates its recommendation that the legislation be brought into line with this approach.**

184. Further, a patient’s voluntary stay in hospital may still be transformed into involuntary hospitalisation upon the sole decision of the head doctor. Despite the recommendations made by the CPT in previous reports, and the impact the deprivation of liberty may have for a patient, such retention still does not require the involvement of another doctor who is independent of the department where the patient is held. In the CPT’s view, the patients concerned should benefit from the same safeguards as other involuntary patients.

185. Similarly, the reviews of the continued need for involuntary civil hospitalisation (including retention) – carried out by the head doctor after three, ten, 20 and 30 days and thereafter every four weeks – do not involve an independent outside doctor. In the CPT’s view, such involvement would offer a further important safeguard for patients who are hospitalised against their will.¹³⁶

The Committee welcomes the frequency of these internal reviews. **However, it strongly recommends that the Danish authorities take the necessary steps, including at legislative level, to ensure that the retention of a voluntary patient and the reviews of every involuntary placement or retention decision require the opinion of a doctor who is independent of the department holding the patient concerned. Such external *ex officio* reviews should be carried out – in addition to the internal reviews – at least after six months and thereafter at regular intervals by an independent authority, preferably a court. During the review procedure, the patient should have the right to be heard and benefit from free legal assistance.**

¹³³ Section 5 MHA.

¹³⁴ Sections 7 and 9 MHA.

¹³⁵ Section 10 (3) MHA.

¹³⁶ See also in this context the European Court of Human Rights’ judgment *X. v. Finland*, Application No. 34806/04, issued on 3 July 2012. The Court *inter alia* stated that, due to the absence of an opportunity for patients to benefit from a second, independent psychiatric opinion, the Finnish law was lacking an important safeguard against possible arbitrariness in decision-making concerning the continuation of an involuntary hospitalisation.

186. Further, it appeared that at the civil psychiatric wards of the Slagelse Psychiatric Hospital, a voluntary patient could be subjected to belt restraint for at least two hours without the involuntary placement procedure being initiated. The CPT must once again emphasise that if the application of restraint on a voluntary patient is deemed necessary, the legal status of the patient as “voluntary” should be immediately reviewed. This would secure the patient’s safeguards such as the appointment of a patient advisor (see following paragraph) and the possibility to appeal against coercive measures before a court. **The CPT therefore reiterates its recommendation that these precepts be implemented in practice.**

187. It is a commendable practice that, as of the outset of any civil involuntary placement, a patient adviser, independent of the hospital and bound by confidentiality, is appointed to guide and advise the patient on his/her placement, stay and treatment, and assist him/her in the event of complaints or appeals.¹³⁷

188. Involuntary hospitalisation may also be ordered by a criminal court¹³⁸ 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 (hereinafter “forensic patients”). The patient in question may be accommodated in a forensic psychiatric unit or a civil psychiatric department.

Patients admitted in the context of criminal proceedings can request a review of their placement every six months (and are informed about this right in writing when receiving the court’s placement decision). Apart from that, the Public Prosecutor in charge assesses the need for continued hospitalisation on the basis of the treating psychiatrist’s opinion once a year and may, in this connection, initiate a judicial review by a court. Otherwise, a regular court review takes place five years after the deprivation of liberty and thereafter every second year. During the court review, which usually takes place at the hospital, the patient is heard in person and represented by a lawyer free of charge.

The CPT recommends that regular *ex officio* reviews of any involuntary forensic placement decision are carried out at least once every six months by an independent authority, preferably a court. Such reviews should be based on the opinion from a doctor who is independent of the department holding the patient concerned.

189. From the examination of patients’ files and numerous interviews with patients and staff, it transpired that the legal safeguards described were adhered to in practice. In particular, the decisions on involuntary placements and their reviews were well documented and reasoned and the procedural safeguards appeared to be respected. The significant number of appeals indicates that the patients were well informed about their right to appeal.

¹³⁷ Section 24 MHA.

¹³⁸ Sections 68 to 69a of the Criminal Code.

8. Safeguards during hospitalisation

190. Apart from the possibility to appeal against decisions on recourse to means of restraint (including seclusion), involuntary civil hospitalisation and involuntary treatment to the Patient Complaints Board, patients could also lodge complaints with the hospital management and a range of independent outside bodies.¹³⁹

191. The law provides for a number of safeguards concerning the patient's consent to treatment.¹⁴⁰ In particular, it states expressly that a patient can only be involuntarily treated if the conditions for his/her involuntary hospitalisation are met. Further, involuntary treatment can only take place as a measure of last resort, if non-treatment would put the patient's life or health in serious danger. Prior to the treatment, several attempts must have been made to explain the necessity of the treatment to the patient (except if delayed treatment would endanger life or health). The patient must further have had the opportunity to discuss the matter with his/her patient advisor and is entitled to "appropriate reflection time" of up to three days. When a patient is involuntarily treated, a doctor must always be present.

That said, it is a matter of concern that the decision to involuntarily treat a patient can be taken by the treating doctor alone. The CPT is of the view that the relevant legislation should also require a second psychiatric opinion (i.e. from a psychiatrist not involved in the treatment of the patient concerned) in any case where the patient him/herself does not agree with the treatment proposed by the treating doctor(s).

The Committee recommends that the Danish authorities take appropriate steps to ensure that the above-mentioned precepts are effectively implemented in all psychiatric establishments in Denmark. To this end, the relevant legal provisions should be amended accordingly.

It is positive that patients can challenge an involuntary treatment decision before the Patients Complaints Boards (see paragraph 170). In that case, the involuntary treatment must be suspended until the board has decided on the complaint (within a maximum of one week).¹⁴¹

¹³⁹ Complaints could be made to the respective region's Patient Councillor, to the Danish National Agency for Patients' Rights and Complaints (*Patientombuddet*) or to the Disciplinary Board of the Danish health care system.

¹⁴⁰ Sections 12 and 13 MHA and Sections 2 to 12 of Executive Order No. 1338.

¹⁴¹ Section 12 of Executive Order No. 1338.

APPENDIX I

List of the establishments visited by the CPT's delegation

Police establishments

City Police Station, Copenhagen

Nykøbing Falster Police Station

Odense Police Headquarters

Prisons

Storstrøm Prison

Blegdamsvejens Remand Prison, Copenhagen

Copenhagen Police Headquarters Prison (*Politigårdens Fængsel*)

Odense Remand Prison

Psychiatric establishments

Secure Department of Slagelse Psychiatric Hospital (*Sikringsafdelingen*)

Intensive wards SL2 and SL3 of Slagelse Psychiatric Hospital

Establishments for detained migrants

Nykøbing Falster Arrest

Ellebæk Centre for Foreigners

APPENDIX II

**List of the national authorities, other bodies and non-governmental organisations
with which the CPT's delegation held consultations**

A. National authorities

Ministry of Justice

Anders Aagaard	Head of Division, Criminal Enforcement Division
Morten Duus	Head of Division, International Police Division
Pernille Østergaard	Deputy Head of Division, Criminal Enforcement Division
Mads Møller Langtved	Deputy Head of Division, Criminal Law Division
Katrine Busch	Deputy Head of Division, Police Division
Katrine Grith Vinten	Head of Section, Criminal Enforcement Division
Stefan Weinschenck	Head of Section, Criminal Law Division
Mie Funder	Head of Section, Police Division
Sofia Regina Lausten Manili	Head of Section, International Police Division

Department of the Prison and Probation Service:

Lykke Sørensen	Centre Director, Centre for Sentence Enforcement
Jakob Schiøler	Head of Legal Office, Centre for Sentence Enforcement
Gitte Møller Larsen	Head of Client Management, Centre for Sentence Enforcement
Tina Engelbrecht Ising	Head of Social Rehabilitation, Centre for Sentence Enforcement
Jette Lund-Abelsen	Manager of Office for Centre Staff, Centre for Sentence Enforcement

Director of Public Prosecutions:

Henriette Rosenborg Larsen	Acting Deputy Director of Public Prosecutions, Legal Division
Kirstine Troldborg	Assistant Deputy Director of Public Prosecutions, Legal Division
Jakob Willaredt	Deputy Chief Prosecutor, Legal Division

National Police:

Birgitte Buch	Chief Legal Advisor, National Contingency and Coordination Centre
Bettina Spang	Chief Legal Advisor, National Aliens Centre

Ministry of Immigration and Integration

Hanne Stig Andersen	Deputy Permanent Secretary
Rebekka Schjellerup	Head of Division
Jesper Gori	Head of Division
Henriette Sundgaard Land	Special Legal Advisor
Henrik Ankerstjerne	Commissioner
Caroline Elmberg	Special Legal Advisor

Ministry of Health

Dorthe Eberhardt Søndergaard	Deputy Permanent Secretary
Carlo V. Andersen	Head of Division
Nina Fjord Fromberg	Special Advisor
Sabine Godsvig Lauersen	Desk Officer

The National Health Data Authority:

Malene Højsted Kristensen	Head of Department
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Ministry of Foreign Affairs

Jens Thule Jensen	Head of Section, International Law and Human Rights, and CPT Liaison Officer
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B. Other bodies

Independent Police Complaints Authority

Charlotte Storgaard	Director
Claes Vestergaard	Head of Office

Office of the Parliamentary Ombudsman

Morten Engberg	Senior Head of Monitoring Department
Erik Dorph Sørensen	Deputy Head of Monitoring Department
Susanne Veiga	Senior Head of Children's Division
Christina Ladefoged	Deputy Head of Children's Division
Rikke Ilona Ipsen	Head of Section, Children's Division

C. International and non-governmental organisations

Amnesty International

Bedre Psykiatry

Danish Helsinki Committee for Human Rights

Danish Institute for Human Rights

Danish Red Cross

Danish Refugee Council

DIGNITY – Danish Institute against Torture

Foreningen af Udlændingeretsadvokater

Kriminalforsorgsforeningen

Landsforeningen Krim

Refugees Welcome

The Joint Council for Child Issues