

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.