

## EXECUTIVE SUMMARY

In the course of the 2024 periodic visit to Denmark, the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) examined the treatment and safeguards afforded to persons deprived of their liberty by the police as well as the treatment and conditions of detention of prisoners, foreign nationals detained pursuant to aliens' legislation and psychiatric patients.

The delegation visited **police establishments** in Aarhus, Albertslund, Bellahøj (Copenhagen), Horsens and Odense. Further, in the prisons visited, the delegation spoke with newly-arrived remand prisoners about their treatment by the police.

Most of the interviewed persons in police custody and on remand told the delegation that they had been treated by the police in a correct manner. The delegation did not receive any allegations of ill-treatment during police interviews. A few allegations were heard of excessive use of force during apprehension and of too tight handcuffing behind the back, both at the time of arrest and during the subsequent transfer in a police vehicle.

The delegation found that persons in police custody were as a rule allowed to notify their next-of-kin of their deprivation of liberty within a reasonable time, either directly or through the police. All detained persons interviewed by the delegation confirmed having been offered access to a lawyer, including an *ex officio* lawyer, although some persons stated that they had only met their lawyer shortly before their first appearance in court.

At the police stations visited by the delegation, access to a doctor was provided, either systematically or at the very least whenever the detained persons had visible injuries, were intoxicated, agitated or expressed any health-related complaints. The delegation also noted that the police systematically informed detained persons of their rights, first orally immediately upon apprehension and subsequently in a written form upon arrival to the police station, by means of an information sheet available in a variety of languages. The CPT was pleased to note that the information sheet now included information on available avenues of complaint against the treatment by the police.

The CPT also noted positively the increased recourse to electronic recording of police interviews; another positive finding was that the training in research-based police interviewing techniques appeared to be in line with CPT standards. That said, although most of the interviewed persons had no complaints regarding the manner in which they had been questioned, a few allegations were received that some police officers would have initiated so-called "informal talks" encouraging detained persons to "cooperate" prior to the beginning of the formal police interview; that is, before the persons concerned were given the possibility to benefit from the legal safeguards for persons in police custody. If true, such practices would be contrary to the aforementioned modern research-based and human rights focussed approach to police interviewing.

Material conditions in the police establishments visited were generally in compliance with the CPT's standards in terms of size, equipment, lighting, ventilation and state of repair and cleanliness, especially given the short detention periods.

The majority of the detained foreign nationals interviewed by the delegation at **Ellebæk Centre for Foreigners** stated that they were being treated by staff in a correct manner. Inter-detainee violence did not appear to be a major problem and whenever it did occur, staff seemed to react quickly and appropriately.

The material conditions of detention had considerably improved at Ellebæk Centre since the 2019 visit, mainly due to extensive refurbishment and lower occupancy levels. However, despite repeated criticism by the CPT and other international and national stakeholders, the environment remained prison-like. This was demonstrated *inter alia* by the presence of barred windows, barred gated partitions between the units and the fact that the establishment was staffed by custodial prison officers carrying handcuffs and pepper spray. Furthermore, prison rules (pursuant to the Criminal Enforcement Act) were applied by analogy to detained foreign nationals. Urgent action should be taken to change this situation given that the foreign nationals detained at Ellebæk Centre were neither criminal suspects nor serving a prison sentence.

The Committee reiterates its view that immigration detention is a form of administrative detention and should be clearly distinguished from imprisonment as a punishment for a criminal offence. Therefore, any impression of a carceral environment should, as far as possible, be avoided. The emphasis should be on minimum internal security regulations and the promotion of normality. The Danish authorities should take steps to eliminate all prison-like features at Ellebæk Centre, taking into account the above remarks.

Detained foreign nationals benefitted from an open-door regime under which they could freely associate with other detainees from the same unit. Approximately half of detained foreign nationals had a paid job. Further, an activity centre had been made available in a separate building. However, many detained foreign nationals appeared not to be aware of the availability of the above-mentioned activities and thus spent most of their days idly. While many detained foreign nationals stayed at Ellebæk Centre for relatively short periods (up to several weeks), much longer stays (up to several months) were not uncommon. The Committee therefore reiterates its view that the longer the period for which foreign nationals are detained, the more developed should be the offer of activities available to them. Further, steps should be taken to ensure that all detained foreign nationals have in principle free access to an appropriate outdoor area throughout the day, including on weekends.

Given the low occupancy levels at Ellebæk Centre at the time of the visit, the overall presence of health care staff could be considered as generally adequate. However, newly arrived detained foreign nationals were still not subject to a comprehensive medical examination on admission. The Danish authorities must ensure that all detained foreign nationals newly admitted to Ellebæk Centre benefit from a prompt physical examination carried out by a doctor or a nurse reporting to a doctor.

The custodial staff complement appeared to be adequate for the currently low occupancy levels but they still did not receive any specialised training for working with detained foreign nationals. Steps must be taken to ensure that all staff (in particular custodial officers) working at Ellebæk Centre are given specific training for working with foreign nationals.

The CPT also made other comments and recommendations, *inter alia* about the use of disciplinary solitary confinement (stressing that it should never be applied for more than 14 days, due to the potentially very damaging effects of this measure to the mental health of the persons concerned), access to the telephone (which should be improved) and the provision of written information to detained foreign nationals.

The CPT's delegation visited several **prisons**, including the Western Prison and Police Square Prison in Copenhagen, as well as Nyborg and Enner Mark Prisons.

At the outset of the visit, senior officials from the Ministry of Justice informed the CPT delegation that the Danish prison system had for the past several years operated above its intended capacity, the rate of overcrowding being the highest in respect of remand prisoners (103%) and sentenced inmates accommodated in closed prisons (102%). Indeed, the four prisons visited were operating at their full capacity or were even slightly overcrowded all prisoners still enjoyed at least 4 m<sup>2</sup> of living space.

Measures taken by the Danish authorities to respond to the increase in the prison population consisted essentially of building new prisons. In this context, the CPT reaffirmed its view that building new prisons cannot by itself provide a lasting solution to the overcrowding problem. This can only be achieved by combining the modernisation of the prison estate with an increased resort to alternatives to imprisonment. The Danish authorities should step up their efforts to ensure that all prisons operate within their official capacities and, to this end, a comprehensive strategy and action plan should be drawn up to manage the prison population, with precise deadlines and budget allocations.

On 23 May 2024, the Kosovo Parliament ratified the bilateral treaty foreseeing the operation of a prison in Gjilan (Kosovo) by the Danish Prison and Probation Administration (DPPA), and the potential transfer there of up to 300 foreign national prisoners sentenced by Danish courts to deportation in addition to a term of imprisonment. The CPT considers that the treaty could potentially raise a number of issues of concern. Among others, the bilateral treaty stipulates that criminal offences committed by Kosovo prison staff working in Gjilan Prison are to be prosecuted by Kosovo authorities, which would amount to a partial relinquishing of jurisdiction for matters that should in principle fall within the responsibility of the Danish authorities. Furthermore, the treaty would appear to be in contradiction with key principles underpinning the Council of Europe Convention on the Transfer of Sentenced Persons.

The delegation received no allegations of deliberate ill-treatment by custodial staff at any of the prisons visited. In all the prisons visited, the delegation found that staff behaved generally in a professional and respectful manner, and many inmates spoke positively about prison officers. As for inter-prisoner violence, it did exist but did not seem to be a major problem in the prisons visited, which was both remarkable and commendable given the presence of many members of warring gangs and of other prisoners who could not be allowed to associate given the high risk of conflict and abuse. Despite the less-than-optimal staffing levels, prison officers generally succeeded in keeping all inmates safe and intervened quickly and effectively whenever any instances of inter-prisoner violence occurred.

As for the material conditions, in all the prisons visited the delegation found the cells to be generally suitably furnished, well-lit and ventilated, clean and in a good state of repair. The best material conditions were observed at Enner Mark Prison which should serve as a reference for the whole prison system. In the other prisons, conditions were also generally adequate despite the occasional wear-and-tear at Nyborg and Western Prisons. In those two establishments, the “jalousies” (shutters) were being gradually installed on cell windows, reportedly to prevent prisoners of different categories from communicating with each other. Whilst access to natural light and fresh air seemed adequate, these devices severely restricted the view from inside the cells, which was particularly problematic for prisoners who were segregated or in high-security units and who often spent 23 hours per day inside their cells.

By far the most problematic issue observed yet again was the absence of in-cell toilets in most of the cells at Nyborg, Police Square and Western Prisons, especially when combined with custodial staff shortages. The delegation heard numerous complaints by prisoners at Nyborg and Western Prisons regarding long delays in access to (and return from) communal toilet facilities, especially at night. The Danish authorities must take resolute steps to ensure that all prisoners have unimpeded access to toilet facilities without undue delay at all times (including at night). Preferably, all cells should be equipped with in-cell toilets. The Danish authorities should put in place a detailed and budgeted action plan, with clear and realistic deadlines, to achieve this goal.

The CPT gained a very positive impression of the regime at Enner Mark Prison where the great majority of prisoners could work and were allowed to associate with fellow prisoners and engage in other activities. The situation was less favourable in the other prisons visited, with approximately a third of the inmates being involved in work or education at the Western Prison and about half at Nyborg Prison.

Both prisons accommodated some segregated and high security prisoners as well as numerous remand prisoners, who were offered a fairly impoverished regime, spending between 21 and 23 hours per day inside their cells, often for long periods, that is for months and sometimes even years. The Danish authorities should take steps to develop adequate programmes of activities for remand prisoners and sentenced prisoners obliged to remain in remand sections. They should also take measures to offer segregated and high-security prisoners structured programmes of constructive activities, preferably outside the cells, based on individual projects intended to provide prisoners with appropriate mental and physical stimulation.

In all the prisons visited, inmates had access to health care, both primary and secondary. However, apart from the Western Prison, none of the prison establishments benefited from a 24/7 health-care staff coverage, with no health-care staff being present after 3 - 4 p.m. or on weekends. This was clearly problematic given the size and characteristics of the prisoner populations in the larger establishments (i.e. Nyborg and Enner Mark Prison) which were accommodating many remand prisoners for whom these establishments represented a point of entry into the prison system.

Further issues of concern were the impact of custodial staff shortages on the provision of health care (with scheduled appointments with doctors having to sometimes be cancelled because there was not enough custodial staff on duty to provide escorts), the inadequacy of access to mental health care (despite recent positive efforts to recruit prison psychologists and to secure the presence of psychiatrists), the legal discrimination of foreign prisoners (who were as a rule only entitled to primary and emergency care) and the persistent absence of systematic and prompt medical screening of all newly-arrived prisoners. On this last subject, the CPT stressed once again that the initial medical screening of all persons admitted to a prison should be obligatory, not optional.

The CPT also commented on a number of other issues such as discipline, the use of “observation” and “security” cells (as well as recourse to fixation), contact with the outside world and complaints procedures. Among others, the Committee strongly reiterated its position that disciplinary solitary confinement should never be imposed for more than 14 days and that solitary confinement as a disciplinary punishment for juveniles should be abolished in Denmark. Further, the CPT called upon the Danish authorities to limit the duration of prisoners’ placements in “observation cells”, to abolish the practice of fixation of prisoners for security reasons and to ensure that all remand prisoners, without exception, effectively benefit from the entitlement of at least one visit lasting one hour every week.

The CPT’s delegation visited two **psychiatric establishments**, namely the Psychiatric Departments of Aarhus University Hospital and the Glostrup Psychiatric Centre.

It should be underlined that no allegations of physical ill-treatment by staff were heard from the patients interviewed by the delegation at either of the psychiatric establishments visited. On the contrary, the vast majority of the interviewed patients spoke very positively about the staff and the delegation observed for itself that many staff members displayed a caring and professional attitude vis-à-vis the patients, as well as a high level of professional commitment. As for inter-patient violence, it did not appear to be frequent and staff seemed to react quickly and appropriately whenever any such violence occurred.

The delegation was positively impressed by the excellent living conditions at Aarhus University Hospital, an establishment which had clearly been thoughtfully designed and which provided a positive therapeutic milieu for the patients. This applied in particular to the Forensic Department, where patients were accommodated in a secure yet non-carceral environment.

The therapeutic staff complement at the Psychiatric Departments of Aarhus University Hospital could be assessed as being fully adequate (and even generous).

Further, based on interviews with patients and healthcare staff and an examination of relevant medical documentation, patients at Aarhus University Hospital were offered adequate pharmacotherapy. The range of individual and group therapeutic activities, some of which were also offered during weekends, was excellent.

For many years, a major concern for the CPT has been the high frequency of recourse to and long duration of measures of restraint, including mechanical restraint (fixation) in Danish psychiatric establishments. The CPT acknowledges the considerable efforts made by the Danish authorities over recent years to reduce the recourse to means of restraint and notably fixation; these efforts must continue.

The CPT also examined the legal safeguards in the context of involuntary psychiatric hospitalisation and treatment and *inter alia* reiterates that steps should be taken to ensure that the internal review of “civil” involuntary hospitalisation requires the opinion of a doctor independent of the psychiatric department accommodating the patient concerned. In addition, the frequency of *ex officio* judicial reviews should be increased for patients detained under a forensic placement decision, to once per year for example. Further, the current legislation should be amended so as to introduce the requirement of obtaining an external psychiatric opinion in the context of such judicial review.