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Introduction

KRIM is a leading Danish NGO with focus on the rights of persons deprived of their liberty, be it in police custody, in prison, in mental hospitals or elsewhere. We cover the entire country geographically. We celebrated our fiftieth anniversary in May 2017.

Until about a decade ago, KRIM did not rely on international human rights. We saw no point in bringing cases to the European Court of Human Rights or otherwise engage with international human rights bodies such as the UN or the CPT. Like most other Danes we saw the Danish system as superior to foreign systems and were convinced that we would achieve better results by relying on the good will of the national authorities or politicians.

A staunch trust in the Danish public sector has been deeply ingrained in large swathes of Danish society for a long time which also seems to include many Danish organisations and NGOs. For half a century Denmark has been hailed in a plethora of international surveys and publications for its stalwart adherence to human rights and rule of law. In fact, Denmark is not only praised for being *good*, Denmark is repeatedly praised for being *the best*: On 11. March 2014 a headline on cphpost.dk read: "*Denmark finished top of the global pile in this year's Rule of Law index published by the World Justice Project, an independent organisation advocating the advancement of rule of law around the world*." On 25. January 2017 a headline on thelocal.dk read: "*Denmark shared first place with New Zealand in this year's Corruption Perception Index (CPI), released by anti-corruption campaign group Transparency International on Wednesday".* A headline in The Economist on 2. February 2013 reads: *"The secret of their success – The Nordic countries are probably the best-governed in the world".* Such international surveys are copiously repeated in publications and on websites belonging to Danish authorities such as the prosecution service and the court administration.

It crops up every so often in the debate in Denmark that international human rights bodies are no more than bureaucratic constructs which have no bearing on Denmark due to the high standards set by the Danish authorities themselves. It is widely held that Denmark doesn't engage with international human rights institutions with the purpose to improve standards in Denmark but rather with the purpose to help other countries to get their act together. In "The Optional Protocol to The UN Convention against Torture" by Rachel Murray et al. ao , Oxford University Press 2011, a

representative of the Danish Ministry of Foreign Affairs is quoted as saying: "*The way we see it here in The Ministry of Foreign Affairs, torture does not really have anything to do with Denmark. But Denmark will take the lead in torture prevention. If we don't ratify the protocol, others will not take it seriously.*" In November 2006 KRIM published a comparison between the police complaints systems in Denmark and that in England and Wales which indicated that about nine times as many complaints were upheld in England and Wales as was the case in Denmark. In the daily "Urban" on 17. November 2006 the chairman of the Danish Police Federation, Peter Ibsen, acknowledged these findings but added that the difference was due to the fact that "*dansk politi opfører sig pænere og har en højere etik end det engelske politi"* [the Danish police behave more correctly and have higher ethics than the English police].

The Danish NHRI ("Institut for Menneskerettigheder")

The Danish Institute for Human Rights ("Institut for Menneskerettigheder") is a so-called "national institution" (or a "NHRI") for the purpose of the "Paris Principles" adopted by UN General Assembly Resolution 48/138 of 20 December 1993. NHRIs are supposed to "promote and protect" national human rights and to draw "*the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations...*". According to the UN-publication "National Human Rights Institutions, History, Principles, Roles and Responsibilities", United Nations New York and Geneva, 2010, page 13, "*NHRIs often find themselves criticizing the actions of the very Governments that created and fund them, which is not surprising since states are frequently the target of human rights complaints*". In the first years of its existence the Danish NHRI did not seem to depart from their counterparts in other countries in that respect. In fact, they regularly published reports where concerns about human rights issues in Denmark were flagged up. Gradually the institute was met with scepticism by politicians and the press. The debate grew more heated. They were told to focus on "real human rights violations" which do not take place in Denmark. Around 2001 the appropriateness of government funding of the institute was questioned by several parliamentarians. The institute was reorganised and soon shifted its focus away from the situation in Denmark and onto human rights violations in developing countries.

The introduction to the English language section of its website does suggest that the institute may have chosen a more moderate approach to Denmark: It says (6. March 2019): "*Denmark has a*

long tradition of supporting and addressing human rights. Over time, various governments have focused on areas such as freedom of expression and religion, eliminating racism, children's rights, torture, and more recently, corporate social responsibility (CSR)". On 25. January 2019 in altinget.dk the present director of the institute, Jonas Christoffersen, was harshly lambasted by the previous director, Morten Kjærum. The latter claims in the article that the present-day "pragmatic" approach to human rights allegedly pursued by the institute is "unprofessional" and contrary to the responsibilities of a national human rights institution. Mr. Kjærum warns against a culture at the institute where the interpretation of international conventions and treaties is stretched to please the Danish public and politicians. He also claims that the institute along with its present director actively have been involved in attempts to restrict the power of the European Court of Human Rights. The present director, Jonas Christoffersen, published a book in 2014 titled "Menneskerettigheder – En demokratisk udfordring" [Human Rights – a Challenge to Democracy]. He sees it as a sign of health that Danish politicians have proposed legislation in relation to immigration that challenges UN-conventions. In his view there is a need to downscale the international judicial system and leave more space for national politicians. In Berlingske.dk 9. October 2017 Jonas Christoffersen questioned the fact that Danish courts did not expel foreigners born and bred in Denmark who had not yet raised a family and who were sentenced to one year of imprisonment or more. He pointed out that the ECHR on no occasion had upheld complaints from such persons.

The aim of this report

The findings in this report suggest that allegations of ill-treatment of detainees at the hands of police officers, prison officers and staff at mental hospitals in Denmark by no means are rare. A relatively comprehensive body of example cases provided in the report suggest that on many occasions allegations of ill-treatment are not even investigated. Furthermore, the report demonstrates that investigations often are carried out in a perfunctory manner. The closure of investigations very often seems to rely on hasty and ill-founded conclusions.

We are aware that our description of the situation in Denmark may be a far cry from the perception held by others. In our view our findings are substantiated in that we provide a significant number of example cases which, for the most part, are identified with case-numbers and the name of the authorities that have handled the cases. This enables the CPT to obtain

further information about individual cases directly from the relevant authorities. Some of our findings are not substantiated by example cases but by articles or by names of professionals who have expressed their view on relevant matters. Where appropriate we have also cited decisions from the ECHR or reports from the CPT.

Our concerns

The Danish response to crime for years has been inclusion and tolerance whereas punishment has been imposed only as a last resort. Crime and other signs of social unrest have to a large degree been addressed by the creation of a relatively equalitarian society including a cradle to grave welfare state. Non-custodial sentences have been preferred over custodial sentences. Welfare initiatives have been prioritised over the criminal justice system.

Recent decades have seen a shift towards a more punitive approach to crime and the criminal justice system is gradually gaining a more prominent position in Danish society. Punishments are getting tougher and the inadequacies of the archaic criminal legal aid system dating back to the late 1800s are being laid bare in these years. It is still the Ministry of Justice that decides *the number* of lawyers allowed on the rosters of lawyers who receive their clients directly from the courts. The ministry also decides *which* lawyers they want onto those rosters. The decisions are based on very vague and broadly phrased administrative rules issued by the ministry itself. This system seriously undermines the independence of criminal lawyers. On top of that Danish lawyers according to CEPEJ under the Council of Europe are disciplined to a much higher degree than lawyers in any other European country. The sanctions have been toughened several times over the past few years and are carried out by a disciplinary board [“Advokatnævnet”] where the majority of the members since 2008 have been judges and persons appointed by the Ministry of Justice. By way of example, the figures show that Danish lawyers are disciplined approximately 25 times as often as their counterparts in England and Wales. Since 2017 the Ministry of Justice, national and local politicians and the tabloid media have stepped up a rhetoric where named criminal lawyers are being publicly accused of collusion with gang-members and other organised criminals. Criminal lawyers are referred to as “bande-advokater” [“gangland lawyers”] who line their pockets from huge legally aided fees. A criminal lawyer was debarred and jailed in 2016 for perjury after having testified that his client had been subject to police brutality. All the more the alleged police brutality was never investigated. Also in 2016 another criminal lawyer was charged with possession of a

knife and narcotics. He was searched in front of his clients in a busy car park. The charges against the lawyer were dropped on the spot and the search was later found to be unjustified and illegal by a court of law. The Danish bar society has not intervened in any of the attacks on lawyers. On the contrary they have time and again sided with the authorities and advanced the idea that defence lawyers should be subject to a regime of zero tolerance.

As some of the example cases in this report suggest Danish lawyers are reluctant to report on ill-treatment of detainees. This is exacerbated by the fact that the Danish oversight bodies seem to have no knowledge of or little interest in international standards including European standards as to how allegations of ill-treatment should be investigated and prosecuted. An immense trust vested in the Danish public sector seem to hinder initiatives that could make institutions like the police and the prison service more transparent and accountable. A proposal in 2014 in the parliament to issue police officers with body-worn cameras in a bid to combat ill-treatment was seen by the police confederation, a majority of politicians and even a Danish human rights NGO as an abject insult on public employees. Trust in the state and in public institutions ("tillid til staten og de offentlige institutioner") was elevated to become one of the 10 Danish core values in the so called "Danmarks Kanon" published in 2016 by the Ministry of Culture.

The checks and balances in place in other countries to protect detainees against ill-treatment are also in place in Denmark. The examples brought in this report do in fact indicate the checks and balances in place in Denmark in many cases do not meet the standards seen in other European countries.

In his doctoral thesis from 2017 Frederik Waage points out that it is very difficult to sue the Danish state and Danish local authorities. He carries out a comparative analysis of the legislation in Denmark and in neighbouring countries applicable to cases where private parties sue or are being sued by public authorities. He concludes that the private party to a large degree is disadvantaged in that provisions in place in most other comparable countries meant to counteract the imbalance between private parties on the one hand and powerful authorities on the other to a large extend are non-existent in Danish civil procedure.

A. Ill-treatment at the hands of police-officers

Case 1

A woman aged 62 without any previous convictions was detained by the police at her home on 26. January 2011 shortly before midnight. The police had been sent to her home due to reported domestic violence. In the presence of the police the woman climbed onto a window sill and shouted that she would jump from the first floor. The police officers found that she posed a suicide risk and detained her. She was not taken to a psychiatric hospital but to the police station roughly eighty kilometres away. During the transport she was handcuffed. 25 minutes past midnight she was placed in a police cell. Upon arrival she was seen by a doctor who found her fit for staying in a police cell. According to the doctor's notes the doctor was not informed about the fact that she had threatened to commit suicide. The doctor noted that she was arrested and charged with domestic violence. He also wrote that she appeared agitated. Shortly after the doctor had left the woman wrapped her jersey around her neck while she was shouting into the CCTV camera in her cell. The desk sergeant saw what happened on his monitor and four police officers were sent to her cell including the two who had arrested her. All four police officers were males. They stripped her of all her clothes including underwear and removed the clothes from her cell. A mattress and a blanket were also removed. That happened around one o'clock in the morning. The woman spent the following approximately four hours in the cell stark naked with no mattress and blanket while she was CCTV monitored from the custody desk. According to the woman the cell was freezing cold. The police officers made brief records of their observations of her movements and reactions once every twenty minutes during the four hours she spent stripped naked in the cell. Among others they wrote: "walks restlessly about", "sits with her head in her arms", "sits up", "does gymnastics". After four hours the mattress and a blanket was returned to the cell but not the woman's clothes. At half past nine in the morning she was given her clothes and eventually released after questioning in the absence of a lawyer. During the night she had continuously asked for assistance by a lawyer, but no one responded to her request. Contrary to Danish law the woman was not seen by a doctor again after her attempted suicide by wrapping a garment around her neck in the cell. According to Danish law male police officers are not allowed to strip a female naked. On 21. February 2017 the woman filed a complaint to The Independent Police Complaint

Authority. On 19. September 2017 the Independent Police Complaint Authority found that the police officers had not acted improperly (Case DUP-2017-332-0187).

See paragraph 6, page 7, in CPT fact sheet on women in prison of January 2018 CPT/Inf(2018)5 it reads: "*Persons deprived of their liberty should only be searched by staff of the same sex. Any search which requires a prisoner to undress should be conducted out of the sight of custodial staff of the opposite sex*."

In other countries it is apparently not taken as lightly as in Denmark if male officers strip a woman naked and leave her naked in a cell.

Under the headline "*Woman strip-searched and left naked wins £37,000 from police"* in the Telegraph 15. June 2015 it reads as follows: *"An investigation revealed she was held down in the cell by four male police officers and a female officer with every item of her clothing forcibly removed - including her bra that was cut from the front of her body. She was then left naked in the cell for half-an-hour with the CCTV camera broadcasting the images back to the custody desk. This was all in breach of police rules stating strip searches should only be carried out by members of the same sex and should not take place in a CCTV cell. Detainees should also only be required to remove half their clothing at any one time and be allowed to dress as soon as the search is completed.*"

In dailymail.co.uk on 15. June 2015 Shami Chakrabarti, Director of "Liberty", is quoted. She said: "*This case represents a gross violation of a young woman's rights to privacy and not to be degraded under the Human Rights Act*". It also appears from the article that the IPCC recommended the custody sergeant face a gross misconduct hearing and that the five officers involved be subject to misconduct charges. According to the article the woman's lawyer is Claire Hilder of Hodge Jones and Allen solicitors.

The Danish case is undoubtedly more aggravating in that the woman was left naked in the cell for four hours without mattress and without a blanket. She was deprived of any possibility to protect herself from the cold and she was monitored on a CCTV screen for four hours by the custody sergeant and an unknown number of other persons who might have watched her. The woman is

diagnosed with a psychiatric disorder due to sexual abuse years back. According to the woman she has been re-traumatised by the treatment while in custody.

From the Globe And Mail from 15. March 2011 it appears that an Ottawa Police Officer was charged with sexual assault after a similar case. It reads: "*One of the Ottawa police officers who was allegedly involved in a jail-house incident in which a woman was kneed, stripped of her bra and left topless in a cell has been charged with sexual assault. The Ontario Special Investigations Unit (SIU) advised the Ottawa Police Service on Tuesday that it had completed its investigation into the case involving Stacy Bonds, who was arrested while walking home after a party in 2008.*

Sergeant Steven Desjourdy is facing one charge of sexual assault. He has been reassigned to administrative duties within the force. The video of her treatment at the hands of police was obtained by the Ottawa Citizen and caused public outcry when it was made available on the Internet."

It does not appear from the case files in the Danish case that the independent police complaints authority has even *considered* if the police could have acted in breach of ECHR article 3 or article 8.

From the CPT report on Finland 1998 (CPT/Inf (96)28):
"102. It should be added that the unit also contained an "observation cell" in which prisoners considered to be suicidal or likely to injure themselves could be located. Surveillance was maintained via an internally mounted CCTV camera ... The delegation was informed that prisoners placed there would often be stripped of their clothes and left naked in the cell. Such a practice is completely unacceptable. The CPT recommends that the practice of placing prisoners naked in the observation cell be ended immediately; prisoners placed in this cell should be provided with tear-proof clothing and bedding ..."

From the CPT report on Belgium 2009 (CPT/Inf (2010)24 (translation from the French original):
"130. ... *To keep a prisoner naked in a cell constitutes, according to the CPT, degrading treatment. The CPT recommends that this practice be stopped immediately. Specially adapted clothing exists which permits the prisoner to keep a minimum amount of clothing while taking into account the risk of suicide*."

Case 2

On 23. September 2017 the police was informed by neighbours that an occupant of a flat in a council estate in Ikast disturbed his neighbours by playing loud music in his flat. On arrival the police realised that there was no music to hear from the flat or other flats in the building. It was about a quarter to one at night. The police officers knocked at the door but the door was not answered. The police officers could not see if the light was on. According to the two police officers they kept pounding on the door with their hands and batons for quite some time. After a while the door was opened by the occupant of the flat. He insisted that he had not played any music and asked the officers to "bugger off" in an undoubtedly impolite way. He had gone to sleep and had no intention to invite visitors at that time of the night. He tried to close the door on the police officers. One of the police officers jammed a foot in the door and both officers made their way into the flat. According to one of the police officers first account of the events they entered the flat because they intended to question the occupant about the complaint from the neighbours. This officer later changed his statement and stated that the police officers entered the flat because they wanted to secure the identity of the occupant of the flat. In Denmark it is a criminal offence not to inform the police about name, address and birthday on request. The other officer stated that the reason they wanted to enter the flat was because they were concerned about the occupants health. While leaving the flat the occupant attempted to hit one of the officers with a fist according to the officers. He was then pepper sprayed and arrested. He was released in the early hours of the morning and charged with assaulting a police officer.

The independent police complaints authority did not find that the police had acted unreasonably and did not even consider if the police officers had acted disproportionately. As the occupant had a mental disorder he was later sentenced to treatment in a psychiatric hospital for an indefinite period of time for threatening behaviour to the two police officers. In Denmark there are aggravating circumstances if threats are directed at people in public office.

In Rachwalski and Ferenc v. Poland (app. no. 47709/99) the ECHR decided a comparable case. In the middle of the night the police had become aware of an unlocked car parked outside a house. The police officers thought it might be a stolen car. The police officers knocked at a window in a house next to the car. The house was occupied by young students who were asleep. A row ensued

and one of the students was hit by a baton and arrested. The other youngsters were ordered out of the house while it was searched. The ECHR found a violation of article 3 and article 8. Paragraph 75 reads: "*The Court further notes that, as indicated above, the police had come to the applicants' door in order to ask them about an unlocked car parked outside the house. It has already highlighted under Article 3 the total lack of justification for the police's heavy-handed approach to the investigation into the ownership of the car. For the Court, the decision to enter the premises can only be described as disproportionate in the circumstances*". According to Danish law it is not an offence to play loud music unless the person has received a prior warning from the police to turn the music down. The fact that there was no music at the time the police arrived adds to the likelihood that the ECHR would find the police officers act not only disproportionate but downright against the law in the case at hand.

While the crime rates in Denmark have fallen slightly over the past 30 years the number of convictions for assaults or threats against public employees have quadrupled. A survey shows that many convictions are the result of reports rendered by staff in psychiatric institutions against patients accused of shouting abuse at staff. The "crimes" are some times committed by desperate patients after days of immobilisation who see no prospect of being freed any time soon. Verbal threats to staff in psychiatric wards often lead to indefinite hospital orders ("behandlingsdomme")

Case 3

A person who sustained injuries following contact with the police on 1. March 2017 complained about police brutality. He was apprehended by the police while seated at the wheel of a stolen car parked in front of a block of flats in a suburb to Aarhus. He told the Independent Police Complaints Authority that a police officer with no prior warning pulled him out of the car and all of a sudden tripped him so he fell over head-first. While lying on the ground face down he was handcuffed. He claims that he was then lifted by the handcuffs from the ground and dragged into a police car. He was later seen by a doctor at the police station. The doctor did not record anything as to the origin of his injuries. Upon release he contacted the A&E at the nearest hospital where his injuries were attended to and recorded. A neighbour and the complainant's mother who had seen the episode from their flats gave a statement to the police complaints authority which corroborated the statement given by the complainant. According to the neighbour the complainant had offered no resistance prior to the point in time where he was thrown onto the ground. The Police Complaints

Authority did not find that any police officer had behaved in a manner that would justify the bringing of disciplinary proceedings against them or that they had committed a criminal offence.

Despite the fact that the episode took place right in front of a block of flats apparently no attempts to find witnesses were carried out by the police complaints authority. The two witnesses were interview at the request of the complainant. Case DUP-2017-311-0779. The complainant is represented by Trine Nytrup a lawyer practising in Aarhus.

Case 4

In July 2018 three non-white persons were arrested in a car in a suburb to Aarhus, possibly for a traffic offence. Shortly after his release one of the three persons filed a complaint to the police complaints authority claiming that he and the other passengers of the car had been assaulted by police officers who repeatedly kicked them, punched them and hit them with batons all over their bodies while they lay face down on the ground exactly as they were told to do. The complainant further claims that they were all victims of repeated racial slurs during the entire time they spent lying on the ground. The mistreatment went on until they were carted away by other police officers. Picts taken by a friend of his after the complainant was released show several bruises in his face and on his legs. He claims that he had countless bruises all over his body. He was seen by a doctor while in custody. The doctor took a blood sample for the purpose of securing evidence against him but apparently showed no interest in the bruises sustained by the complainant. While in a police cell police officers entered his cell on several occasions in a bid to secure a confession about the driving offence, but no one took any action as regards his bruises. After the complainant was released, he immediately went to hospital where he received treatment at the A&E. In February 2019 the complainant was interviewed by the police complaints authority. It seems that no other meaningful investigations have been carried out so far. The case-number at The Independent Police Complaints authority is 311-233-18.

Arrested persons are occasionally seen by a doctor (a GP) called by the police. The police are normally present while the person is examined. Sometimes injuries are registered but very rarely in detail. Normally there are no details about the cause of the injuries. The function of doctors called by the police is normally limited to assess whether the person is fit for a stay in a police cell. They may also be asked to collect a blood sample if the person is under suspicion of a driving offence.

Case 5

On 5. November 2016 a person went partying with his brother and some friends in the town of Kolding. Before midnight the group was approached by the police as the police believed they may have participated in a pub brawl earlier on the evening. The case against them was later dropped. One of the persons claims that he for no reason, and very quickly, was thrown face down onto the ground by a police officer. Six of his front teeth were damaged and one of his teeth was beaten out. The police officer claimed that it was necessary to force the person down on the ground because he resisted arrest. The police officers gave no details as to how the person had sustained the injuries. The independent police complaints authority did not find that the police officers had acted in an inappropriate manner (case DUP 2016-311-0740).

case 6

On 24. November 2018 a reveller shouted "luder" [slut] at a police woman outside a pub in Hjørring in front of some of his friends who were also partaking in the nightlife. A male police officer decided to arrest him for offensive language to a person in public office. Video footage secured by a friend of the complainant show that the police officer walked up to the complainant who did not offer any resistance at all. The officer is seen pushing the complainant while tripping him which results in the victim tumbling forward face down onto the tarmac. According to the case file he sustained injuries. Case 343-272-19 with the police complaints authority.

Case 7

People occasionally tell that police officers bang their heads for example against the ground or against bonnets or boot lids of police cars. A young person arrested on 3. September 2018 in Aalborg claims that happened to him. According to the young person he had his head banged against a police car by a police officer apparently upset about finding a pocket knife on the person. Video footage show bruises under his chin which seem to corroborate his claim. Case 331-234-18 with the police complaints authority.

1. Claims that police dogs are allowed by police officers to maul arrested persons

People who have been mauled by police dogs occasionally claim that police officers sic their dogs on them although they have surrendered and offer no resistance.

In an article in avisen.dk on 12. February 2019 a former police officer who served as a dog handler in the police force of Copenhagen came forward and told that his dog on one occasion went out of his control and maimed a disabled woman. She was taken to hospital with gashes that needed seventy-two stitches. He further told that most dog handlers were delighted about their dogs because they were tough ("begejstrede for hundene, fordi de var hårde"). The dog handler further told that according to the rules each time a person had been bit by a police dog the dog handler is supposed to report how it happened but that they often did not report the truth as the management wanted them to cover up what had really happened. According to the dog handler the police dogs are trained in a way that makes them aggressive and difficult to handle. The dog handler is not ethnically Danish and claims that he is now on sick leave after having been subject of persistent racist insults and slurs from colleagues. After he came forward, he was frozen out and called a nark ("stikker").

The journalist who wrote the article about the dog handler has written several critical articles about the police in Copenhagen. On 17. December 2018 the national tabloid bt.dk wrote that the journalist was physically attacked by police a few days earlier outside a supermarket in Copenhagen. According to the article the journalist was walking on the pavement with his shopping after having left the supermarket as a van all of a sudden mounted the pavement and blocked his way. Two police officers jumped out of the van and attacked him ("gik på ham"). He was thrown onto the pavement and handcuffed. At that point he had not been told why he was arrested. He gradually found out that he was suspected of shoplifting in the supermarket he had just left. He could produce the receipt which was in the bag with the shopping he carried. Two images accompanying the article shows the journalist with numerous bruises and swellings all over his face and marks on his wrist from apparently tight handcuffs. The journalist is represented by Bjørn Elmquist a lawyer practising in Copenhagen.

Case 8

The complainant was arrested in June 2018 in the outskirts of the city of Odense ensuing an attempted burglary in a workshop. As the complainant was approached by one of the residents in the area, he escaped the scene and hid in a hedgerow at some distance away from the crime scene. He was tracked down by a police dog and arrested. According to the complainant he remained lying down until ordered to do otherwise. Even though he made no attempts to resist an arrest the dog handler, according to the complainant, repeatedly set his dog on him and it bit him several times. The complainant further states that he was kept in a police cell for seven hours. He claims that he was refused to contact his lawyer and that he was not seen by a doctor. Upon his release he went to hospital and contacted the A&E. Pictures of the injuries of the complainant are passed on to the police complaints authority (case 311-223-18).

Case 9

The police came to the remand prison in Aarhus on the 20. April 2016 to take a prisoner to the high court in Viborg where his appeal case was scheduled. The police officers told him that they contemplated to handcuff him as all prisoners are handcuffed during transport. He insisted he didn't want to be handcuffed and told the officers he would rather drop the appeal case and stay back. He walked back to his cell followed by the police officers who insisted he go with them. They claim that he threw water from a cup on one of them. He was then pacified and taken to the high court. The Director of public prosecution later acknowledged that there was no basis to compel the complainant to attend the hearing. Only a court of law has the power to compel a person to attend a court hearing. The complainant had not been asked by the court to attend the hearing. The complainant was later prosecuted for assaulting a public employee (case V.L. S. 1132-18)

2. Police officers and prison officers have successfully resisted the introduction of body-worn cameras

Despite the fact that body worn cameras seem to have a positive effect on the treatment of people deprived of their freedom in other countries such as the UK the Police Federation of Denmark ("Dansk Politiforbund") and the Danish Prison Officers Association ("Fængselsforbundet I Danmark") have so far successfully managed to stave off any attempt to introduce body worn

cameras on Danish public employees. A proposal to introduce body worn cameras in the Danish police force was voted down by a big majority of the Danish parliament in 2014. A minister ("Karsten Lauritzen") stated in the parliamentary debate that there is no reason to have the same level of distrust towards the Danish police force as is the case when it comes to the police forces in England and the US. He added that body worn cameras may be appropriate in Ferguson [town in the US] but in Denmark this would amount to a gross overkill. ("*… vi mener i Venstre ikke, der er grundlag for at have den samme mistillid til dansk politi, som man har til politiet i England og USA. Jeg vil da bestemt ikke afvise, at kropskamera kan have en positiv effekt, f.eks. i Ferguson, men i sammenligning med Danmark mener vi i Venstre at det vil være at skyde gråspurve med kanoner.*"). Another member of the parliament (Trine Bramsen) stated that it would be unfair to our public employees who every day goes to work to fight for our common good that they should be kept under camera surveillance. She also warned against comparing the Danish police force to the police forces in England and the US as public trust in the Danish police is world class.

Persons held in Danish police cells have been kept under CCTV-surveillance for years. Despite repeated allegations of brutality against persons in custody the independent police complaints authority has never questioned the fact that the CCTV-equipment in Danish police stations is not fitted with storage facilities. The police complaints authority base virtually all their decisions on statements from police officers. The Prison Officers Association have also successfully managed to keep body worn cameras out of Danish prisons. According to the national paper Ekstra Bladet on 3. March 2018 prison officers at Vestre Prison in Copenhagen have initiated a collective boycott of body cameras introduced on a trial basis in two Danish prisons. On the basis of footage obtained from body cameras worn by a group of prison officer during a cell extraction the prison authorities asked the police to investigate the behaviour of the prison officers. Since then body worn cameras have been mothballed at Vestre Prison.

In 2015 The Metropolitan Police in London introduced the permanent use of body worn cameras on the uniforms of police officers. The Lord Mayer said to the BBC News on 3 June 2015: "*This is exciting technology that will build trust, help the police do their jobs, and allow the public to hold officers more accountable*."

3. Lawyers are present only in a tiny fraction of police interviews of suspects

Barely any police interview of a suspect in Denmark is sound recorded and lawyers are rarely present at police interviews. Prior to police interviews suspects are in fact routinely dissuaded from seeking to exercise their right of access to a lawyer by police officers informing them about the fact that there is no proper criminal legal aid scheme in Denmark and that suspects with no exception will be called upon to refund the costs of the lawyer's fee to the state if they are found guilty of the crime in question. See CPT report on Denmark 1996 paragraph 35 (CPT/Inf (97) 4).

4. Institutional racism and police harassment

It has become increasingly apparent that institutional racism flourish in the Danish police. Back in 2007 a police officer at Copenhagen Airport came forward and told that racism in the police force was rife and that had been the case for many years. He claimed that one third of his former colleagues in the police force engaged in racist behaviour according to an interview in avisen.dk on 8. July 2007. Black persons were referred to as "kakkelovsrør" ["stove pipes"]. Many other slurs were also used regularly by police officers according to the interview.

Case 10

In the case DUP-2013-331-0986 a black person was called a "N.W.A" (short for "Nigger With Attitude") by a police officer. The independent police complaints authority found the statement was undesirable ("uhensigtsmæssig").

A police officer approached some persons who were not ethnically Danish and who stood inside a shop. One of the persons found that the police officer harassed them and asked him if he didn't think it was improper to treat human beings like that. The police officer then answered: "It is not human beings". This was caught on an audio recording. The police complaints authority found the statement inappropriate ["kritisabel"]. No further action was taken (case DUP-2013-331-1274).

In February 2019 a case is pending at the independent police complains authority where a police officer has termed three Iranians "kakkelovnsrør" ["stove pipes"]. This was also audio recorded.

People who are not ethnically Danish claim that they time and again are pulled over for no obvious reasons. They and their vehicles are routinely searched. When no contraband is found the charges are dropped on the spot. They only have a chance to get non-pecuniary damage if the search has lasted longer than 10 minutes.

5. Very few people seek compensation for police harassment

The vast majority of people who feel harassed by repeated searches do not take the cases to court because that type of cases are excluded from the Danish civil legal aid scheme (which is pretty similar to civil legal aid schemes in other western countries). Instead the cases are covered by the criminal legal aid scheme introduced in the late 1800s which stipulates that a litigant, disregarding his/her income, is obliged to compensate the state the costs of his/her case including the fee for his/her legal representation if he/she is not awarded the damages asked for. The compensation obtained if successful is considered meagre by most people and very few people are awarded any damages at all. The national debt collection authority "Restanceindrivelsesmyndigheden" launched about 15 years ago vigorously collects debts to the state accrued by persons ordered to reimburse the costs of their previous unsuccessful cases against the state for example by making deductions in their low income benefits, disability benefits etc. Most people think twice before they take the police to court.

6. Judges, prosecutors and even lawyers often do not respond to allegations of ill-treatment

Case 11

An immigrant was arrested on 18. February 2019 together with his brother after his brother had been found in possession of counterfeit banknotes. He was arraigned on 19. February at the local court in Esbjerg. At the hearing he mentioned to the judge that he had been subjected to police brutality during his arrest. According to the minutes of the court the immigrant told that a police officer had allegedly held him by the nape of his neck and banged his head against the pavement, put him in a choke hold on several occasions and shouted abuse at him. According to the minutes the judge ordered the defence lawyer to assist his client should he want to file a complaint. While leaving the court room the person instructed his lawyer to file a complaint. Later on, he told to

police officers that he wanted to have his bruises registered with a doctor and asked if he could be seen by one. According to the detainee he was told to come off it. He later asked for permission to get another lawyer who was appointed by the court on 12. March 2019. After having obtained the case file from the previous lawyer the new lawyer visited the detainee in prison on 17. March. By that time the detainee no longer had any visible injuries (case 99-865/2019 at the court).

Case 12

A person was placed in a police cell on 30. August 2013. The following day he was arraigned charged with assault of two police officer in the police cell the night before. He told the judge, his defence lawyer and the prosecutor that he had been kicked by police officers while lying handcuffed in the cell and that he had not assaulted any police officers. He had been examined by a doctor in the police station. The doctor recorded that he had sustained bruises in his head. The doctor also noted that some of his ribs were bent and possibly broken. Nothing was stated by the doctor as to how the patient may have sustained his injuries. His lawyer did not assist him in filing a complaint about the police. He later got another lawyer who filed a complaint to the independent police complaints authority in January 2014. On 20. May 2015 the director of public prosecutions decided not to prosecute the police officers (SAV-2015-321-0830). On 22. May 2015 the person was jailed for assault on two police officers in the police cell on 30. August 2013 (case 11-5714/2013 in the local court in Aalborg)

KRIM is often told that people make allegations about ill-treatment to judges, to prosecutors and even to lawyers without any investigation is initiated. It is also claimed that lawyers occasionally advise their clients that it is not worth the trouble to file a complaint to the police complaints authority as virtually no complaints are upheld.

B. Ill-treatment in prisons

The Danish prison authorities in 2016 released a survey where prisoners were asked about their exposure to harassment and physical abuse from fellow prisoners and staff. 19% of prisoners in closed prisons reported that they had been victims of violence carried out by staff while staying in the institution where they stayed at the time they were questioned. That means that violence from staff in other prisons was not included. Prisoners who have had physical confrontations with prison staff are normally immediately transferred to other prisons. If the prisoners in the survey had been asked about their exposure to harassment and physical abuse from staff during their entire stay in prison the figures are likely to have been higher. 78% of the prisoners who claimed that they had been subjected to violence from prison staff also answered that they had not reported about it to the relevant authorities. 82% answered that they had not reported instances of threatening behaviour from the staff to any authorities.

For many years the prison authorities have pursued a so called “zero tolerance policy” towards prisoners who are accused of violence or threatening behaviour towards the staff. They are often met with long stints in segregation units, refused early release and prosecuted. Virtually no instances of alleged abuse of prisoners are investigated let alone prosecuted. Not only the prison staff but also lawyers and the prisoners themselves seem reluctant to report ill-treatment of prisoners.

1. Steep rise in the use of pepper spray in Danish prisons

According to the Danish broadcasting corporation dr.dk on 11. January 2019 pepper spray was used 125 times by staff against Danish prisoners in 2017. In 2015 pepper spray was used 35 times in the prisons.

2. The number of cases where solitary confinement is used as a punishment is skyrocketing

In 2015 seven inmates were places in a punishment cell for 15 days or more as a disciplinary measure. In 2016 the figure was 223. In 2017 the figure had risen to 511. In 2018 674 inmates were placed in a punishment cell for 15 days or more. This is almost a hundredfold increase in

three years. On 1. September 2017 new administrative rules were introduced which make isolation in a punishment cell a mandatory sanction for prisoners using foul language. First time offenders will be secluded for 3-5 days. Next time he or she will be secluded 5-7 days. Third time the prisoner will be secluded for 7-10 days. The term “fuck you” is given as an example of foul language that triggers seclusion. As far as KRIM is informed the use of short spells in punishment cells have also increased drastically.

The disciplinary procedure in Danish prisons is looked upon as excessively arbitrary by prisoners. Fellow prisoners are very rarely allowed to give witness statements. The prisoner does not receive any case files in advance of the hearing why he or she has no possibility to prepare his/her case.

3. Long term solitary confinement

KRIM is in touch with prisoners who have been kept in solitary confinement for years on end. There is no access to a judicial review of decisions to keep prisoners in solitary confinement.

4. No independent review of complaints from prisoners

A few years ago, the Danish prison rules were changed so prisoners only in a few types of cases can file a complaint to the central prison directorate. At present most decisions made by the prison administration can only be heard by the regional prison administration unit [“Kriminalforsorgsområde”]. Virtually no complaints from prisoners are upheld.

5. Very limited access to legal representation in prisons

“KRIM RETSHJÆLP” is a national institution that offers legal assistance mainly to prisoners. The institution is approved by the national civil legal aid authority [“Civil Styrelsen”] and covers all prisons in the country. Different closed prisons have different policies as to allow staff from KRIM RETSHÆLP access to their prisons. Prisoners at Herstedvester prison have regularly received visits from KRIM RETSHJÆLP for more than 10 years. Other prisons have told KRIM RETSHJÆLP that they do not want to “cooperate” with KRIM RETSHJÆLP and staff from KRIM RETSHJÆLP are not allowed access to the prison.

In closed prisons prisoners have access to phone calls to a limited number of persons who are approved by the prison in advance. The calls are made from card-phones placed on the landings. The prepaid phone cards are expensive. Prisoners can add KRIM RETSHÆLP to the limited number of approved numbers if they want. Prisoners are hesitant to allocate one of their limited numbers to KRIM RETSHJÆLP which they only use occasionally. The fact that calls are expensive also makes them think twice. Prisoners only have access to phone conversations with KRIM Retshjælp provided the prisoner and KRIM RETHJÆLP sign a written permission in advance that allows prison staff to overhear and audio record the conversation. Prisoners seem to be reluctant to talk about their cases lest they should be overheard by staff. This is very much the case if prisoners want inform KRIM Retshjælp about abuse from staff or ill-treatment.

Prisons do not handle e-mails from KRIM-RETSHJÆLP to prisoners. The postal service in Denmark has been severely slashed as very few people write normal letters any more. It often takes about a week to deliver an ordinary letter. Virtually all communication between prisoners and KRIM RETSHJÆLP is via ordinary letters, which seriously impairs the quality of legal advice offered to prisoners in Denmark.

Prisoners in open prisons often have their own phones and can communicate freely with KRIM RETSHJÆLP.

6. Harassment of female prison officer who reported on ill-treatment of prisoner

In the online national paper dr.dk on 18. June 2018 a former female prison officer at Herstedvester Prison, Marianne Jørgensen, was interviewed. She told that she had testified in court in 2013 against a colleague who according to Marianne Jørgensen had put a female prisoner in choke-hold and abused her physically and verbally. She further tells that 15-20 colleagues showed up in the spectator's gallery at the trial to offer support for the defendant who was eventually found guilty of violence against the prisoner. According to Marianne Jørgensen she was subsequently cold-shouldered and frozen out by her colleagues until she eventually quit her job.

7. 23-year-old Somali immigrant died in prison after nine days of physical restraint

In January 2016 a Somali immigrant aged 23 named Shaarmake died from a blood clot few days after having spent approximately nine days on end physically restrained to a bed at "Vridsløse Prison". He died on 25. January according to the tabloid paper "Ekstra Bladet" 14. March 2018. The youngster was stripped naked during the entire stint and barely got anything to drink or eat according to the paper. According to the website AdvokatWatch on 31. October 2018 the immigrant's lawyer was not informed about the demise of his client until 2 years after he had died. The lawyers name is Jan Torp Hansen. A professor in vascular surgery, Henrik Sillesen, told to the national radio station 24syv.dk on 30. October 2018 that it is likely that the youngster's death was caused by the long period of restraint. According to the article that view is also shared by cardiac surgeon Jørn Dalsgaard. In 2008 the CPT in its report to the Danish government pointed out that restraint "*for periods of days at a time cannot have any justification and would amount to ill-treatment.*" See paragraph 71 in document CPT/Inf (2008) 26. Albeit the immigrant apparently was freed for a short interval after three days he was continuously restrained for six consecutive days. It is hard not to conclude that the immigrant was subject to ill-treatment.

8. New law excludes foreign prisoners awaiting expulsion from rehab programmes in prison

A law enacted in May 2017 (Law No. 429 passed on 3. May 2017) excludes foreign prisoners who are to be expelled upon release from participation in educational activities, vocational training and treatment for drug addiction in prison. According to the Minister of Justice the aim of the law is to make the prison conditions harsher ("skærpe afsoningsvilkårene") for foreigners who are awaiting expulsion. The minister adds that the purpose of the law is to "signal" to "criminal foreigners" that a prison term in Denmark really is meant as a punishment. ("*sende et klart præventivt signal til kriminelle udlændinge om at et fængselsophold i Danmark er en reel straf")*. Able-bodied prisoners including foreign prisoners are obliged to work in Danish prisons. The new law allows foreign prisoners who are to be expelled upon release access to training and treatment for drug dependency under special circumstances ("særlige forhold taler herfor"). It is exemplified that it may be necessary to offer foreign prisoners who are to be expelled upon release limited training necessary for their compulsory work or to offer them treatment for drug dependency if discipline in prison so requires.

9. A change of the law in 2002 has made prisoners less inclined to file complaints

Prisoners regularly tell that they do not venture to initiate cases about harassment or abuse from the prison staff. In chapter four of the Danish public administration law ("forvaltningsloven") it is specifically stated that prisoners have no right to be given any reasons if they are transferred from one prison to another without their consent. That is also the case if the transfer is from a normal wing in a prison into a segregation unit. A decision to place a prisoner in a segregation unit is not subject to judicial review or any other independent review. Prisoners fear involuntary transfers and transfers to segregation units in particular. Prisoners may be subject to transfer because they are deemed "negatively dominant prisoners" ("negativt stærke indsatte"). Before 2002 prisoners had the right to be informed about the reasons for involuntary transfers and therefore stood a better chance to challenge them. The legislation introduced in 2002 is obviously open to abuse and undoubtedly has a chilling effect on prisoners who might consider to file a complain about ill-treatment. Accounts given by prisoners suggest that the rules are used arbitrarily.

A prisoner whose name is known by KRIM at the open prison "Horserød" is prepared to give details to the CPT about abuse of transfers against outspoken prisoner spokespersons.

C. Ill-treatment in mental hospitals

1. Physical restraint of psychiatric patients

According to the Danish broadcasting cooperation dr.dk on 27. July 2017 there has been a 6,3 percent increase in the use of physical restraint of psychiatric patients in Denmark from 2015 to 2016. According to a press release from 14. June 2018 from the Ministry of Health the use of physical restraint of psychiatric patients had only been reduced slightly by 2018.

At the psychiatric hospital in Middelfart a patient was physically restrained to a bed slightly longer than 9 months on end. After he was allowed out of the bed in the autumn 2015 he was initially confined to a wheelchair to move around in his room as he was unable to walk. On top of that he was segregated from other patients for an additional 10 months. A case where he asks for compensation is pending with the court in Odense (case BS 11-1171/2015 and BS 11-2042). The case has been pending since 2015 and no decision has been reached so far.

At the psychiatric hospital in Aalborg a patient has been physically restrained to a bed for about 13 months on end. He was freed for the first time in early March 2019. The Psychiatric cases complaints board ("Det Psykiatriske Patientklagenævn") has found that it was justified to keep the patient restrained for the first couple of months. The board on the other hand found that it was not justified to keep the patient restrained from 13. April 2018 until February 2019. The case reference number with "Det Psykiatriske Patientklagenævn" is 19/00379-37.

On 29. September 2017 a person was admitted to the forensic psychiatric ward R1 in Aarhus. While he sat handcuffed on a hospital bed surrounded by police officers and hospital staff he was told that he would be placed in a stripped segregation cell for the following 24 hours. He insisted that he did not want to stay in a stripped cell. According to staff he got agitated and wanted to leave the cell why he was placed in physical restraint in a bed for 47 hours and 30 minutes. According to the head doctor, Rayna Doseva Petrova, all patients are routinely segregated from other patients in a stripped cell for the first 24 hours upon arrival. Patients who appear ready for this may be allowed association with other patients after the first 24 hours. The case reference number is BS-6754 at the local court in Herning.

2. Private security guards escalate conflicts in psychiatric hospitals

A woman born in 1965 was taken to the mental hospital in Slagelse by her relatives on 25. November 2016. According to hospital staff she was agitated on arrival and tried to escape from the reception area to which she was brought by her children. A uniformed private security guard was present and according to staff the woman became aggressive and kicked at and hit the staff including the security guard in an attempt to escape. She was eventually placed in a restrain bed for slightly more than three hours. The day after she was restrained again after having assaulted the staff anew. This time she was physically restrained for approximately two and a half days. The woman who had no previous convictions was later found guilty of assault on public employees and sentenced to five years of treatment in a psychiatric hospital. The head doctor and her probation officer can detain her or offer her treatment as an out-patient as they see fit. Her treatment (including her detention) may be extended by the court in increments of two years indefinitely. During the trial against the woman she testified that uniformed security guards were around in the ward all the time she stayed in the hospital and that she found their presence highly intimidating. The trial against her took place at the Eastern High Court in January 2019 in case S-2365-18. The psychiatric patients complaints board found that a part of the period in which the woman had been physically restrained was unlawful. In January 2018 the local court in Næstved awarded her 5.000 Danish Kroner in non-pecuniary damage (Case reference number BS T2-928/2017).

3. Armed police officers and the use of pepper spray in psychiatric wards

On 15. January 2017 a psychiatric patient at the psychiatric ward at Frederiksberg Hospital became agitated as he was told that medical treatment without his consent was about to be initiated. The staff called the police as they wanted assistance from the police to get the patient medicated and physically restrained to a bed. According to the staff and the police officers the patient sat quietly on a chair in the exercise yard when the police arrived. As a police officer tried to get a grip on the patient he offered resistance. The patient was then pepper sprayed by a police officer whereupon he was pacified and taken to a restraint bed. A case against the patient for assault on the staff is now pending at the local court in Frederiksberg in case 1502/2018.

On 6. June 2014 a patient was physically restrained and remained restrained until 13. June 2014. On 6. June police officers were called to the ward as staff wanted him restrained. According to

reports from the staff the patient stayed in his room at the time the police officers arrived. The reasons given for the decision to restrain him was that he had made threats to some members of staff and that he had a history of violent behaviour. After two police officers had arrived the two officers along with a large number of staff entered the patients room and told him that he was about to be restrained. He argued that he had not made threats to the extend claimed by the staff. He also made other verbal objections and asked to be moved to another hospital. According to the report the patient did not react physically in any way apart from the fact he backed off at the time the police officers tried to grab his arms. As he tried to resist apprehension, he shouted that he would "screw the head doctor yellow and green" after his release ("kneppe lægen gul og grøn"). Eventually he was pacified with pepper spray and restrained. He was taken out of the restraint bed 7 days later. On 10. April 2017 the Eastern High Court decided that the hospital had acted correctly, and no damage was awarded (case B-2338-16).

On 21. June the day team at the hospital ward learned that the patient mentioned in the example just above the night before had knocked some pot plants over and in other ways had been disruptive. They decided that he should be physically restrained and called the police. A nurse later testified in court that she had been with the patient in his room while they waited for the police to arrive. The patient had been calm and quiet all the time. The nurse also testified that the patient suggested to her that she could ask the doctor if it was possible that he could avoid physical restraint if he promised to stay put in his room. The nurse had then answered that it was out of the question that restraint could be avoided as it had been decided by the head doctor earlier in the morning he be restrained. On this occasion five police officers in riot gear including shields participated in getting him restrained. On 13. November 2017 the Eastern High Court ruled that the hospital had acted correctly, and no damage was awarded (case B-914-17).

4. Patient slapped in the face by member of staff while lying physically restrained in bed

On 27. June 2014 a male nurse slapped a patient in the face while the patient was physically restrained in a bed. Both his hands and feet were strapped tightly to the bed at the time the nurse approached the bed and slapped the patient. That happened after the patient allegedly had spat at the nurse. The episode was witnessed by several other staff-members. The case was reported to the police on 5. November 2015 (more that 16 months after it had happened) by the patient's lawyer who coincidentally was made aware of what had happened. The local court in Aalborg

decided the case (case 2-5154/2016) on 12. October 2016. The nurse argued that he had acted in self-defence. The court found that the nurse had slapped the patient after the patient had been restrained and after he had had his feet and hands strapped to the bed. The court found that the nurse had therefore not acted in self-defence. The court did in fact acquit the nurse as the court found that the nurse had been under physical stress and in an emotional distress because of alleged physical attacks from the patient prior to the point of time where his hands and feet had been strapped to the bed. A descending judge found the nurse guilty of violence. The patient's lawyer and the patient felt intimidated while the patient testified because a large number of staff from the hospital were present in the courtroom seemingly to offer support to their colleague. The patient subsequently told his lawyer that he did not fancy the thought that he may end up in the same ward again.

The prosecution did not appeal that decision. There is no access to private prosecution in Denmark why the patient could not take the case any further. It appears from the case files that the hospital management had known about the episode since about the time it happened but had not reported the case to the police or taken any action against the nurse.

This case along with umpteen other cases illustrates that ill-treatment takes place in Denmark without the perpetrators are brought to justice.

5. Frequent strip searches at forensic psychiatric wards

A person held in a forensic psychiatric ward in Viborg was strip search 41 times in a space of approximately 19 months (from August 2013 till February 2015). The strip searches were carried out at the end of each visit he had from his mother or after the end of each unsupervised day release. No contraband was ever found. At the end of each visit or unsupervised day release two members of staff took the person aside and demanded he took off all his clothes. He was then ordered to bend over and spread his buttocks. He was also routinely ordered to squat and cough. According to the hospital management the procedure applies to all patients in the ward who want an unsupervised visit or an unsupervised day release. According to the written rules of the ward patients could opt to have an unsupervised visit of a duration of 60 minutes ensued by a strip search or to have a supervised visit of a duration of 30 minutes with no ensuing strip search. The

local court and the Western High Court have both ruled that the hospital acted correctly, and the case is now pending in the Danish Supreme Court (case BS-48104/2018 HJR).

The large number of strip searches and the way they are carried out is excessive by European standards (as far as prisons are concerned): See, e.g., paragraph 54 in report from the CPT's from 2012 (CPT/Inf (2013) 25 to the Government of Bosnia and Herzegovina. Inter alia it reads: "*In the CPT's view, resort to strip searches should be based on an individual risk assessment and subject to rigorous criteria as well as supervision, and they should be carried out in a manner respectful of human dignity. In this connection, the Committee can see no justification for strip searching prisoners after a closed visit. Further, those inmates who are strip 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.*" See also ECHRs ruling in Khider v. France (app. No. 39364/05).

Patients from forensic psychiatric wards across the country tell that strip searches also are carried out on a routinely basis there albeit the procedure may vary.

6. Lack of meaningful activities in forensic psychiatric wards in Denmark

We are told from patients in forensic psychiatric wards that they stay in the wards for months or years without being offered any meaningful occupation, if any occupation at all. Many patients tell that they spend most of the time watching television. It is also often claimed that the most glamorous moments of the day is when patients are allowed into the outdoor smoking cubicles. According to many patients, staff keep to themselves in their offices and that prompt disciplinary action is taken against patients who enter the offices. Formally there are no disciplinary punishments in mental hospitals. But many patients tell that harsh regimes are established at most forensic psychiatric wards and that patients are "punished" with long stints in their rooms where they are kept secluded from other patients often for long periods. Such seclusion is termed "skærmning".

7. Compulsory Electro Convulsive Treatment (ECT)

A patient sectioned at a psychiatric ward in Holstebro was given electro-convulsive therapy (ECT) against his will on 14 occasions from 29. August 2012 till 24. September 2012. The first treatments were given while he was physically restrained to a bed. He was physically restrained for 5 days on end. On 12. August 2013 the patient was found guilty of threatening behaviour to the staff at the ward committed at the time he was told that he was going to receive ECT treatment involuntarily and on three other occasions. He had no previous convictions and was sentenced to psychiatric treatment for an indefinite period of time. According to the sentence the head doctor and the probation service can at any time decide jointly whether the patient shall be treated as an in-patient or an out-patient. In Mach 2019 the sanction was not yet lifted. The patient has so far been deprived of his liberty for about one year and six months pursuant to the sentence. At the moment he is allowed to stay in his own flat provided he takes the medicine prescribed for him. He can be re admitted again at any time. In January 2016 his defence lawyer complained to the Psychiatric Patients Complaints Board ("Det Psykiatriske Patientklagenævn") over the fact that he had been exposed to involuntary ECT treatment and that he had been physically restrained for five days. The board found on 5. February 2016 that the ECT treatment was unjustified and that the first days of the restraint were unjustified (case 2016-9367). In paragraph 41 in document CPT/Inf (98) 12 the CPT among others states about ECT treatment: "*Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent*."

8. Allegations of sexual abuse of psychiatric patient by a member of the staff never investigated

On 18. January 2017 a psychiatric patient was arraigned at the local court in Glostrup and charged with threatening behaviour towards a male nurse in a car park in front of the psychiatric ward at Glostrup general hospital. According to the nurse the patient had about six months earlier (on 15. July 2016) approached him in the car park of the hospital. The patient had held his phone up and video recorded the nurse at a distance of about half a metre in an aggressive and agitated manner. The patient told the court that he had been sexually abused by the nurse and that he had reported it to the head doctor and to the police both in 2011 and 2016. The court found that the patient

should be held on remand. On 1. February 2017 the court was asked to extend the detention of the patient. The prosecutor confirmed that the patient had reported to the police in 2011 and 2016 that he had been raped by a member of the staff at the psychiatric unit. The police had decided not to investigate the allegations. The patient was later sentenced to treatment in a psychiatric hospital.

9. The high security mental hospital "Sikringsanstalten" in Slagelse

This institution has according to different sources obstructed, or indeed directly hindered, detainees' access to lawyers or to their independent mental health advocates (bistandsværger). The latter are persons appointed by the court to assist detained patients in psychiatric wards to get their opinions heard, filing complaints etc. They also assist patients in getting in touch with lawyers if need be. The Danish mental health advocates are organised in the national organisation "Landsforeningen af Patientrådgivere & Bistandsværger I Danmark (The LPD)". The vice chairman of The LPB, Jan Labusz, has told KRIM that the independent mental health advocates occasionally are harassed by staff at the institution. They are also told by patients that staff regularly attempt to lure them into shifting to lawyers and mental health advocates who less zealously file complaints against the institution. Jan Labusz has also reported that zealous mental health advocates have been inundated with complaints from the institutions. The complaints are directed to the regional authorities which have the power to have mental health advocates removed from the rosters from which the courts appoint mental health advocates. In Jan Labusz's opinion mental health advocates do feel uneasy about the situation.

According to politiken.dk 9. March 2017 a person who had been detained for many years at the institution was not allowed to receive visits from his lawyer, Erbil Kaya, Copenhagen. The person is a Somali citizen and has also been refused visits from the Somali ambassador to Denmark. The lawyer has further told KRIM that the parents to the patient have obtained a written attorney from the patient that states that the patient want to be represented by Erbil Kaya. KRIM understands that Erbil Kaya still hasn't been able to contact his client. A person deprived of his or her liberty has a right to be represented by a lawyer instructed by his or her relatives if he or she so wishes. The case of Dvorski v. Croatia, app. no. 25703/11, GC, par. 102, demonstrates that the Court presupposes that a lawyer instructed by relatives shall have access to the detainee unless the detainee does not want assistance from that lawyer.

On two occasions a lawyer who represented clients at the institution received letters signed by his clients stating that they no longer wanted to be represented by the lawyer. On both occasions the letters were typewritten. Patients at the institution have no access to typewriters or computers why they usually send handwritten letters. All the more the letter had the official logo of the hospital. According to the vice chairman of the LPD, Jan Labusz, the patient later told him that the patient was coerced into signing the letter and that the head doctor had promised him early release if he signed it.

10. Clamp down on critical mental health advocate after complaint of ill treatment of her client

Helle Munch Oldefar was one of the busiest mental health advocates in the country for many years and persistently objected to what she saw as malpractices or ill-treatment of detained psychiatric patients. On 16. March 2016 the local court in Sønderborg (in case BS C3-680/2005) upheld a decision made by the regional authorities to terminate her contract. In the court's reasoning it was emphasised that Helle Munch Oldefar on one occasion to a member of the staff in a psychiatric hospital had "initiated a talk among others about" ("var begyndt at tale blandt andet om") a treatment approach she disliked despite the fact that the head doctor previously had warned her that she should not communicate with the staff about the way her clients were treated as that was none of her business. It was not disputed that the mental health advocate had addressed the member of staff in a decent and appropriate manner. The authorities had received no prior complaints about the mental health advocate. According to the vice chairman of the LPD, Jan Labusz, the case has sent shivers down the spine of many mental health advocates who now think twice before they challenge what they see as improper or unreasonable treatment of their clients.

Inefficient legal assistance and lack of proper criminal legal aid

In KRIM it has been a talking point since time immemorial that a considerable number of ex officio lawyers (“beneficerede advokater”) appear to have a rather lackadaisical approach to their duties and even fear to challenge abuse of their clients. These lawyers are allowed by the Ministry of Justice to be listed on rosters of lawyers who receive clients directly from the courts. The Ministry of Justice also decides the number of lawyers allowed onto the rosters. The criteria issued by the ministry of justice are vague and therefore very open to arbitrariness or corruption. Lawyers with less profitable businesses are keen to be allowed on the rosters. Once on the roster a lawyer will be shielded from competition as he or she will receive a steady flow of cases directly from the court. The system was established in the late 1800s and has only undergone minor changes. The system has many similarities to the long gone systems in Eastern Europe and is undoubtedly at odds with the standards set out in the 2013 United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems which points out the importance of a legal aid system where legal aid providers are appointed by “a legal aid body” which is “independent of the government”. It is also significantly more open to corruption than systems in place in other western countries where lawyers access to similar schemes is based on the basis of clear and transparent criteria.

Back in 1931 the Danish law society proposed a legal aid system in criminal cases that would make criminal lawyers more independent of the state in that all lawyers who had been practising for a minimum of 5 years according to the proposal should have the possibility to become ex officio lawyers. On the law societies general assembly on 28. May 1943 it was again proposed to reform the system. The ministry of justice opposed such reforms as the ministry did not believe that all lawyers would observe the level of “discretion” required by the authorities. In a publication about the ethical standards of lawyers published on behalf of the law society by two lawyers (Martin Lavesen and Lars Økjær Jørgensen) in 2008 the authors warned that Danish ex officio lawyers (“beneficerede” lawyers) risked developing a special relationship to the court which may compromise their independence (“hvilket kan påvirke uafhængigheden”). The authors brought the attention of their readers to ECHR article 6, paragraph 3, letter C. In a review of the book by the organisation of ex officio lawyers (“Foreningen af forsvarsadvokater”) the authors were berated for their use of “big words”. In the next edition of the book there was no mention of ex officio lawyers.

1. Growth in highly specialised defence lawyers since 2008

Since around 2008 a growing number of persons who get into contact with the criminal justice system have been aware of the possibility to ask the court to have a specific lawyer appointed. This trend has opened the market for criminal lawyers who are not ex officio lawyers but who compete on market conditions. That has paved the way for specialised criminal law firms. Specialised criminal law firms were few and far between before 2008 because ex officio lawyers according to the administrative rules issued by the ministry of justice are required not only to be experienced in criminal cases but in civil cases as well. Until 2008 approximately 400 ex officio lawyers covered the vast majority of criminal cases in Denmark. According to figures released by the law society ("Advokatsamfundet") in January 2019 there are now an additional 200 lawyers who are not ex officio lawyers but who regularly take on criminal cases.

2. Specialised defence lawyers not appreciated by ex officio lawyers and the police

The trend that people increasingly ask the courts to appoint a lawyer of their own choice has caused unease among ex officio lawyers. An article in the local daily nordjyske.dk on 25. June 2013 discusses a relatively new law firm that in the space of a few years had grown into the biggest firm of criminal lawyers in Denmark. Michael Juul Eriksen a lawyer employed in that firm tells that the expansion of the firm had created a tougher competition. According to the article the expansion of the new firm apparently had frightened other law firms out of their wits.

The authorities also occasionally appear discontent with the increasing use of criminal lawyers who are not ex officio lawyers. Under the headline "The Police slate critical defence lawyers" in the daily paper "Information" on 25. July 2007 six defence lawyers gave examples of the way they or their clients were harassed by the police.

On 4. February 2019 a high profile Danish criminal lawyer, Gert Dyrn, claimed in a feature in the national daily "JP" that ex officio lawyers are protected from competition by the state, and that the ministry occasionally appoints lawyers with little experience to become ex officio lawyers. He further claimed that some prisoners awaiting trial are not visited by their ex officio lawyer prior to their trial. He suggests that the law society sides with ex officio lawyers and in fact contributes in undermining the legal profession.

The fact that ex officio lawyers are not chosen on the basis of transparent rules has contributed to the apparent rift between ex officio lawyers on the one hand and specialised criminal lawyers on the other. In KRIM's view it is paramount that lawyers who want to get on the rosters of ex officio lawyers are chosen on the basis on transparent rules that openly specify the exact qualifications required from applicants. The present system is openly flawed as it allows the courts and the ministry of justice to pick ex officio lawyers who are loyal to the court and the authorities rather than to their clients. This may be the reason why Danish lawyers seem to have no significant role in combatting ill-treatment of detainees.

3. Clamp down on specialised defence lawyers

In 2017 it emerged in the tabloid papers that one of the nascent specialised criminal law firms had handed free logoed caps, tote bags and jerseys out to prisoners on remand. That was immediately brought to an end after the news emerged. It is disputed whether the firm had acted against the ethical rules for lawyers in force at the time.

In an article with the headline "Pape [The Danish minister of justice] has had enough – tax-payer funded millionaire-lawyers" in the tabloid paper ekstrabladet.dk, 2. July 2018, the minister claimed that a bunch of celebrity defence lawyers are gaming the system while wallowing in the tax payers money. The Minister of Justice vowed a tougher approach to defence lawyers.

More rigorous supervision of defence lawyers (and not other lawyers) was put in place in 2018. An amendment of the law of criminal procedure from June 2018 intends to make it more difficult to choose a "busy" lawyer. The amendment purports to shorten the duration of criminal proceedings. Figures released in 2014 by the CEPEJ under the Council of Europe show that the duration of criminal trials in Denmark already was shorter at that time than in any other member state apart from Russia. The lavish funding of the police and the modest funding of the cash-strapped courts seem to have a much bigger bearing on the course of criminal trials than the choice of lawyers made by defendants. By the time the court takes steps to appoint a lawyer for the defendant the case has normally been delayed for so long by the police or the prosecution that differences in schedules for different lawyers have a miniscule impact on the overall length of the case. The CEPEJ statistics further show that Denmark has more prosecutors than average in the member states and that the number of lawyers and professional judges are way below average. It also

appears from the figures that Denmark spends more money on the prosecution service but less on the courts than average. No facts indicate that the process is stymied by busy lawyers.

4. The law society's view on specialised criminal lawyers

In January 2019 the law society released a report titled "Evalueringsrapport – Forsvarertilsynet" The report evaluates the supervision regime targeting defence lawyers.

The report essentially laments that the approximately 400 ex officio lawyers ("beneficerede advokater") who until around 2008 virtually had a monopoly on criminal cases have been supplemented by approximately 200 lawyers specialised in criminal cases who compete for their clients on market terms.

The advent of the 200 lawyers specialised in criminal law has fundamentally changed the scene. According to the administrative rules issued by the ministry of justice "Beneficerede" lawyers are supposed to be experienced in both civil and criminal law. The "new" group of criminal lawyers are often highly specialised in criminal law or related areas such as human rights. The report makes no mention of the serious risk to the independence and quality of ex officio lawyers emanating from the fact that the ministry of justice decides their number and chooses them on the basis of vague and ambiguous administrative criteria. To the contrary the report leaves the impression that the law society in fact are unhappy with lawyers who are chosen by their clients and not by the state. The law society along with the ex officio lawyers seem to dislike the competitive spirit attributed to the "new" criminal lawyers. The report suggests that the "new" lawyers make themselves dependent on criminal gangs in order to secure customers from their members. In barely veiled terms the report favours "beneficerede" lawyers over specialised criminal lawyers. It is even suggested that "beneficerede" lawyers ask for more modest fees than specialised criminal lawyers. The report also points out: "*Advokatsamfundet har ikke noget grundlag for at antage, at der generelt skulle være væsentlig forskel i kvaliteten af det arbejde, der leveres af forskellige forsvarsadvokater.*" which more or less translates into: "*The law society has no reason to believe that there generally is a marked difference in the quality of the performance from individual defence lawyers*."

This conclusion is not corroborated by facts but seems to be based on gut feeling and may even be spurred by an attempt to rid the profession of lawyers who are not "beneficerede". The conclusion is all the more surprising given the fact that criminal lawyers in other countries normally are encouraged continuously to improve their skills and qualifications in order to provide the best possible defence for their clients. A suggestion that there is no "*marked difference in the quality of the performance from individual defence lawyers"* seems very much to be in harmony with a system where lawyers are encouraged to adjust to the will of the ministry of justice at the expense of the needs of their clients.

The CPT has recently highlighted the need for independent lawyers. In paragraph 34 in its report to the government of Azerbeijan from 2017 (CPT/Inf (2018) 37) the CPT draws the attention of the government to the importance of an efficient legal aid system. The CPT writes: "*Clearly, the Azerbaijani system of ex officio legal aid to persons deprived of their liberty continues to fail to operate as a safeguard against ill-treatment by law enforcement officials.* ***The CPT strongly reiterates its recommendation that a comprehensive review of the system of ex officio legal assistance be carried out, in co-operation with the Bar Association*****."**

5. Disciplinary sanctions against lawyers in Denmark

Danish lawyers have the highest number of disciplinary sanctions in Europe according to the CEPEJ under the Council of Europe (2014-statistics). It may be argued that these statistics reflect the fact that the standards in Denmark are higher than elsewhere in Europe. The figures stand in stark contrast to other CEPEJ statistics from the same year that shows that Danish judges receive no sanctions at all. These figures *combined* do not corroborate the fact that the standards in Denmark are excessively high. The overt discrepancy between sanctions against lawyers on the one hand and judges on the other rather indicate that lawyers may be targeted by the disciplinary authorities while judges enjoy impunity. Danish lawyers are disciplined approximately twenty-five times as often as lawyers in England and Wales. The disciplinary process in Denmark is carried out in writing and not in a public hearing. The majority of the members on the board are persons appointed by the ministry of justice and judges. A significant number of the sanctions churned out by this disciplinary board have been aimed at lawyers who have attempted to uncover irregularities in the judiciary or in public institutions including ill treatment of detained persons.

A lawyer who was widely known for his fight for human rights for refugees in Denmark and who has been harassed by politicians, the police and other authorities for years was disbarred and jailed for perjury in October 2016. The lawyer had testified that he had seen a police officer throwing his clients onto the flour in a brutal way. He had also testified that he had not heard his client expressing threats to the police officer during the episode. Based on statements from the police officer, his colleague and a court officer the lawyer was convicted of perjury. Jurors and judges who had also been present were not called as witnesses and the alleged ill treatment of the lawyers client was never investigated despite the fact that a journalist who had been present had reported in a paper that he had seen the lawyers client being ill treated. The mere fact that the allegations of police brutality have never been investigated may be in breach of the procedural head of ECHR article 3 (see for example Jeronovics v. Latvia, application number 44898/10 GC).

The OSCE held a conference in Tbilisi on 3. and 4. November 2005 where ill treatment of people in custody was debated. The minutes of the conference are published in a report of 9. December 2005 titled "The Role of Defence Lawyers in Guaranteeing a Fair Trial". The report emphasises the importance of defence lawyers who are truly independent of the control of government. It points out that defence lawyers "are front line human rights defenders" in any society. It further reads: "*Lawyers are the first people that a person arrested and facing criminal charges turns to. Usually, lawyers are the first people outside law enforcement personnel, who hear complaints of torture and see the evidence of mistreatment.*" (page 27).

Very few Danish lawyers seem to act as "front line human rights defenders". Lawyers are very rarely present when suspects are interrogated by the police. Defendants often claim in criminal trials that they were lured into a confession or even that confessions have been extracted from them by the police. Statements obtained from suspects in the absence of lawyers are routinely admitted as evidence in criminal cases. Audio recordings of police interviews are very rarely available. There is CCTV coverage in all Danish police cells, but the system is not equipped with recording facilities. The fact that a defence lawyer has been disbarred and jailed for perjury after having testified about ill-treatment of his client has been a talking point among some Danish defence lawyers for a long time. It is hard to imagine that the case will not have a chilling effect on lawyers in Denmark.