



## **Report**

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

**from 30 May to 6 June 2012**

The Estonian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2014) 2.

Strasbourg, 21 January 2014

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**Copy of the letter transmitting the CPT's report**

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Strasbourg, 23 November 2012

Dear Ms Tšaikovski,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Estonian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Estonia from 30 May to 6 June 2012. The report was adopted by the CPT at its 79<sup>th</sup> meeting, held from 5 to 9 November 2012.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Estonian authorities to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Estonian authorities to provide, in that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

The CPT would ask, in the event of the response being forwarded in Estonian, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Lətif Hüseynov  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

cc: Ms Gea Rennel, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Estonia to the Council of Europe

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to Estonia from 30 May to 6 June 2012. It was the Committee’s fifth visit to Estonia.<sup>1</sup>

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

- Haritini DIPLA, Acting 1st Vice-President of the CPT and Head of the delegation
- Mykola GNATOVSKYY
- Georg HØYER
- Ivan MIFSUD
- Ana RACU
- Vytautas RAŠKAUSKAS.

They were supported by Trevor STEVENS, Executive Secretary of the CPT, Elvin ALIYEV and Julien ATTUIL-KAYSER of the CPT’s Secretariat, and assisted by:

- Veronica PIMENOFF, psychiatrist, Head of Department at the Helsinki University Psychiatric Hospital, Finland (expert)
- Marje EINRE (interpreter)
- Meelis LEESIK (interpreter)
- Margus PUUSEPP (interpreter)
- Vivian RENNEL (interpreter)
- Ene TSHETORKINA (interpreter)
- Viivi VERREV (interpreter).

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<sup>1</sup> The CPT has previously carried out three periodic visits (1997, 2003, and 2007) and one ad hoc visit (2009) to Estonia. All visit reports and related Government responses have been made public and are available on the CPT’s website: <http://www.cpt.coe.int/en/states/est.htm>

**B. Establishments visited**

3. The CPT's delegation visited the following places of deprivation of liberty:

Police establishments

- Haapsalu Detention House
- Jõhvi Detention House
- Narva Detention House
- Rakvere Detention House
- North Prefecture Detention House, Tallinn
  
- Kohtla-Järve Constable Department
- North Prefecture, Public Order Bureau, City Centre Police Station, Tallinn
- North Prefecture, Public Order Bureau, East Police Station, Tallinn
- North Prefecture, Public Order Bureau, South Police Station, Tallinn

Prisons

- Tallinn Prison
- Viru Prison

Psychiatric / social care establishments

- Psychiatric Clinic of the North Estonia Medical Centre, Tallinn
- Koluvere Care Home

Military establishments

- Detention barracks of the Guard Battalion, Tallinn.

**C. Consultations held by the delegation and co-operation encountered**

4. In the course of the visit, the delegation had consultations with Hanno PEVKUR, Minister of Social Affairs, Margus SARAPUU and Priit KAMA, respectively Secretary General and Deputy Secretary General of the Ministry of Justice, and Tarmo TÜRKSON, Secretary General of the Ministry of the Interior, as well as with other senior officials from these Ministries. The delegation also held meetings with Indrek TEDER, Chancellor of Justice, and representatives of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix II to this report.

5. The co-operation received by the CPT's delegation during the visit, both from the national authorities and from staff at the establishments visited, was excellent. The delegation enjoyed rapid access to all the places visited – including ones not notified in advance – as well as to documents requested, and was able to speak in private with persons deprived of their liberty. The delegation would like to thank in particular the CPT's liaison officer, Ms Mariko Jõeorg, for the assistance provided before and during the visit.

**D. Immediate observations under Article 8, paragraph 5, of the Convention**

6. During the end-of-visit talks with the Estonian authorities on 6 June 2012, the CPT's delegation outlined the main facts found during the visit and, on that occasion, made four immediate observations under Article 8, paragraph 5, of the Convention on certain particularly urgent matters, two concerning conditions in police detention houses and two on prison-related matters.

Conditions in Haapsalu Police Detention House were found to be appalling. The delegation requested the Estonian authorities to make plans in order to take this detention facility out of service. The delegation further requested that three of the cells (Nos. 2, 3 and 4) of the detention house be taken out of service immediately and not be used again until such time as access to natural light was provided.

Another immediate observation was made in respect of three of the cells (Nos. 5, K1 and K2) at Narva Police Detention House, which were unsuited for use as detainee accommodation due to their limited size and/or lack of access to natural light. Notwithstanding the fact that a new detention house was already under construction, the delegation requested the Estonian authorities to take the above-mentioned cells out of service immediately.

A third immediate observation concerned the disciplinary unit (Block K1) of Tallinn Prison, conditions in which were very poor. The delegation requested the authorities to make plans in order to take Block K1 out of service and find for disciplinary purposes another location within the prison. The delegation also requested that two of the cells (Nos. 76 and 85) in that block, which measured less than 6 m<sup>2</sup> and were in an extremely dilapidated state, be taken out of service immediately. Additionally, it was requested that no juveniles be placed in any disciplinary cell of Block K1.

The final immediate observation concerned the excessive use of solitary confinement at Viru Prison, including in relation to juveniles. The delegation requested the Estonian authorities to review current practice in this regard at that establishment.

7. The above-mentioned immediate observations were subsequently confirmed in a letter of 14 June 2012 from the Executive Secretary of the CPT. The Committee requested the Estonian authorities to provide, within three months, an account of the steps taken in response.

By letter of 28 September 2012, the Estonian authorities informed the CPT of measures taken in respect of the immediate observations. This information will be commented upon in the relevant sections of the present report.



**E. National Preventive Mechanism**

8. On 18 February 2007, the Chancellor of Justice (the Ombudsman) was designated National Preventive Mechanism (NPM) by the Estonian authorities, following the entry into force of the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) a month earlier.

The Chancellor of Justice, in his NPM capacity, conducts regular visits to all places of detention (prisons, police stations, social care homes, institutions for children, psychiatric or military establishments, etc.) and publishes summaries of his visits' findings and an annual "overview" of the work of the NPM in Estonian and in English. Visits can be performed with the assistance of specific experts.<sup>2</sup>

9. At the outset of the visit, the delegation held a detailed exchange of views with the Chancellor of Justice and his staff. The delegation gained the impression that there were adequate resources and experienced personnel for pursuing the NPM mandate.

That said, the CPT notes that the assignment of additional tasks as NPM to the Chancellor of Justice has not given rise to any organisational changes within his Office. Instead, all staff members can be engaged on both the traditional Ombudsman-related tasks and NPM work. The CPT is not convinced that this is the best way to ensure an optimal functioning of the NPM in accordance with the letter and the spirit of the OPCAT. In this connection, reference might be made to paragraph 32 of the Guidelines on national preventive mechanisms adopted by the Subcommittee on Prevention (SPT) in November 2010, according to which: "Where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget".

**The CPT suggests that consideration be given to setting up such a separate Unit or Department within the Chancellor of Justice's Office, to be responsible for the NPM functions.**

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<sup>2</sup> Including medical, psychiatric and security and fire experts.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Establishments under the authority of the Ministry of the Interior

#### 1. Preliminary remarks

10. The basic legal provisions governing the detention of persons by the police remained as summarised in the report on the CPT's visit to Estonia in 2007. It is recalled that a person suspected of a criminal offence can be held by the police on their own authority for up to 48 hours. Upon the expiry of this period, the person must be released from custody if the court has not ordered his/her pre-trial detention.

Other possible grounds for being held in police custody include the detention, for the purpose of identification and/or the preparation of a misdemeanour report, of persons who are suspected of having committed a misdemeanour or having violated public order (maximum period 48 hours), as well as the detention of persons who, due to alcohol or narcotic intoxication, might present a danger to themselves or others (maximum period 24 hours).

11. As was the case during previous visits, police detention houses were frequently used to accommodate persons remanded in custody for the duration of the pre-trial investigation.<sup>3</sup> In addition, persons sentenced to short prison terms (of up to three months) or convicted of a misdemeanour (up to thirty days) could also be held in detention houses. During the 2012 visit, the CPT's delegation met remand prisoners who had already been held in police detention houses for several weeks, and on occasion for months.

Although today several police detention houses in Estonia provide adequate material conditions of detention, the CPT remains of the opinion that such establishments are unsuitable for prolonged periods of detention. Above all, the regime offered to detained persons remains impoverished even in the brand-new detention facilities, given their structural deficiencies (see paragraph 35). Reference should also be made in this context to Rule 10.2 of the European Prison Rules.<sup>4</sup> As regards more specifically remand prisoners, the Committee considers that continued detention on police premises, even after the person concerned has been brought before a judge, increases the risk of intimidation and physical ill-treatment.

**The CPT reiterates its recommendation that the Estonian authorities put a definitive end as soon as possible to the practice of accommodating remand and sentenced prisoners in police detention houses.**

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<sup>3</sup> During the pre-trial procedure, remand detention may not in principle last for more than six months. However, in exceptional circumstances, this term may be extended by the preliminary investigation judge (no specific time limit is stipulated); see Section 130, paragraphs 3 and 3<sup>1</sup>, of the Code of Criminal Procedure.

<sup>4</sup> Rule 10.2 reads: "In principle, persons who have been remanded in custody by a judicial authority and persons who are deprived of their liberty following conviction should only be detained in prisons, that is, in institutions reserved for detainees of these two categories."

12. The information gathered during the 2012 visit also revealed that it was still a common practice throughout the country for persons placed in a remand prison to be subsequently returned to police detention houses, if this was considered necessary for investigation purposes. Estonian legislation does not provide for any specific time limits in these cases; the delegation found that in practice, such returns usually lasted one to two weeks.

The CPT has repeatedly stressed that, from the standpoint of the prevention of ill-treatment, it is far preferable for further questioning of persons committed to a remand prison to be undertaken by investigators in prison rather than on police premises. The very poor conditions prevailing in certain police detention houses are another reason against such transfers. **The Committee recommends that the Estonian authorities take measures to ensure that the return of remand prisoners to police detention houses for investigation purposes is only sought and authorised very exceptionally, for specific reasons and for the shortest possible time; supervising prosecutors should examine carefully any requests for such returns made by police investigators.**

13. Of the eight persons detained in Narva Police Detention House at the time of the visit, two were remand prisoners who had been returned there for further investigation. Bearing in mind, on the one hand, the very poor conditions in this detention house and, on the other hand, the proximity of Jõhvi Police Detention House (which offers satisfactory material conditions), **the CPT recommends that no remand prisoner be returned to police detention in Narva, pending the entry into service of the new detention house in the city** (see paragraph 28).

## **2. Ill-treatment**

14. The CPT's delegation received almost no allegations – and found no other evidence – of physical ill-treatment of persons detained by the police. Practically all the detained persons interviewed by the delegation who were or had recently been in police custody said that they had been treated correctly. To sum up, the information gathered during the 2012 visit confirmed the positive conclusion reached by the Committee during its previous visits.

However, at the East Police Station in Tallinn, the delegation overheard a police officer threatening a detained person with conducting a full cavity search on him in a manner he “will not like” once the delegation had left. Further, a few isolated allegations were heard of excessive use of force (such as kicks, punches, tight handcuffing) by police officers at the time of apprehension, after the person concerned had been brought under control.

**The CPT recommends that staff at the East Police Station in Tallinn be reminded that ill-treatment of any form, including threats, will not be tolerated and will be punished accordingly. The Committee also trusts that the Estonian authorities will continue to regularly remind police officers that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

15. The delegation received no allegations whatsoever of physical ill-treatment of detained persons by custodial staff in the police detention houses visited. However, at Tallinn Police Detention House, a few inmates complained of the use of insulting or disrespectful language against them by some staff members. **The CPT requests the Estonian authorities to remind staff at Tallinn Detention House that the verbal abuse of inmates is unacceptable and will be punished accordingly.**

16. At the outset of the visit, officials of the Ministry of the Interior informed the delegation that a total of 52 complaints of ill-treatment by police officers had been lodged in 2011. Criminal proceedings had been initiated in respect of three of them, based on Section 291 of the Criminal Code (“Abuse of authority”). While the proceedings had been terminated “for lack of public interest” in one case, in the remaining two cases, indictments had been issued against the police officers involved; the cases were pending before courts of first instance at the time of the visit. **The CPT would like to be informed of the outcome of the court proceedings in the above-mentioned two cases.**

In order to obtain a fully up-to-date and nationwide picture of the situation, **the Committee would also like to receive the following information, in respect of the period from 1 January 2012 to the present time:**

- **the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- **an account of any criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police.**

### **3. Fundamental safeguards against ill-treatment**

17. It should be recalled that three fundamental rights (the rights of access to a lawyer and to a doctor and the right to have the fact of one’s detention notified to a relative or another third party) should apply from the very outset of a person’s deprivation of liberty. These safeguards should apply not only to persons detained by the police in connection with a criminal or administrative offence, but also to those who are obliged to remain with the police for other reasons (e.g. as a witness or for identification purposes).

a. notification of custody

18. The vast majority of detained persons met by the delegation confirmed that they had been placed in a position to exercise the right of notification of custody. The delegation noted that the exercise of this right was recorded in the “Protocol of detention”.

However, as was the case during the 2007 visit, a number of detained persons claimed that their relatives or other persons of their choice had been notified only after a considerable delay (e.g. the following day or even two days later). Further, the delegation received a few complaints that feedback was not always provided and that, as a result, the detained person did not know whether notification had been given.

**The CPT recommends that the Estonian authorities make further efforts to render fully effective in practice the right of persons deprived of their liberty by the police to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty. Further, detained persons should be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

19. The Estonian Code of Criminal Procedure provides that the exercise of the right of notification of custody may be refused with the permission of the public prosecutor “if the notification prejudices a criminal proceeding”.<sup>5</sup>

The CPT has always accepted that the exercise of this right may on occasion be subject to certain exceptions in order to protect the legitimate interests of the investigation. However, any such exceptions should be clearly defined – in this respect, the current wording of the law is certainly too vague – and applied for as short a time as possible. **The Committee reiterates its recommendation that the relevant legal provisions be amended so as to reflect these precepts.**

20. In the report on its 2007 visit<sup>6</sup>, the CPT recommended that the Code of Criminal Procedure be amended in order to introduce a legal obligation on the police to immediately notify the parent, guardian or curator when a minor was detained as a criminal suspect. It is a matter of concern that the law still does not contain such a requirement. **The CPT therefore reiterates its recommendation that the relevant legislation be amended accordingly.**

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<sup>5</sup> Section 217, paragraph 10, of the Code of Criminal Procedure.

<sup>6</sup> See CPT/Inf (2011) 15, paragraph 22.

b. access to a lawyer

21. The applicable norms regarding access to a lawyer have remained unchanged since the CPT's previous visit.<sup>7</sup>

As was the case in 2007, criminal suspects were generally able to contact their own lawyer or offered an *ex officio* lawyer. The delegation was informed that a system had recently been introduced whereby requests by the police to provide a lawyer for a detained person could be transmitted to the relevant bar association electronically. Further, as with the notification of custody, the exercise of the right to have access to a lawyer was recorded in the "Protocol of detention".

Detained persons are formally questioned by the police in the hours following the drawing up of the protocol of detention by a police investigator, and many persons indicated that they had benefited from the presence of their lawyer during such questioning. However, it appeared that it was not uncommon for detained persons, in respect of whom an *ex officio* lawyer had been appointed, to only meet that lawyer for the first time at the court hearing, even in cases where a lawyer was requested shortly after apprehension. **The CPT would like to receive the observations of the Estonian authorities on this issue.**

22. When a criminal suspect was a juvenile, the police questioning as a rule took place in the presence of a lawyer and a social worker. However, the Committee regrets that, despite the specific recommendation made to this effect after the 2007 visit<sup>8</sup>, the presence of a lawyer is still not mandatory during police questioning of juveniles detained on suspicion of having committed a misdemeanour. **The CPT reiterates its recommendation that the Estonian authorities take measures to ensure that such a presence is obligatory.**

23. The CPT understands that prior to the presentation of a detained person to a police investigator, the police officers (e.g. patrol staff) who carried out the apprehension may themselves question the person concerned. **The Committee wishes to make clear that the right of access to a lawyer must also apply during any such period of initial police questioning.**

c. access to a doctor

24. The delegation received allegations that detained persons were not always allowed to have access to a doctor when they were held in a police establishment. Several persons indicated that their request to see a doctor was denied. Further, police and health-care staff confirmed that detained persons' requests for medical assistance were filtered.

Ever since its first visit to Estonia in 1997, CPT has been recommending that specific legal provisions be adopted regarding the right of persons held in police establishments to have access to a doctor as from the very outset of their deprivation of liberty. During the 2012 visit, the delegation was informed by senior officials of the Ministry of the Interior that the Internal Rules of Police Detention Houses, adopted in October 2011, provide for such a right. In particular, reference was made to Section 10(3) of the Rules which stipulates that "[i]n case of need, a medical examination of a detained person shall be arranged by a health-care provider".

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<sup>7</sup> See CPT/Inf (2011) 15, paragraph 23.

<sup>8</sup> See CPT/Inf (2011) 15, paragraph 26.

The CPT considers that this provision is still not sufficient. Access to a doctor should be guaranteed as from the very outset of deprivation of liberty, and not only following a detained person's admission to a police detention house. Further, detained persons should enjoy an express right of access to a doctor, as distinct from the duty of the police to ensure that detained persons receive the necessary assistance. And that right of access should include the right, if the detained person so wishes, to be examined by a doctor of his/her choice (in addition to any medical examination carried out by a doctor called by the police).<sup>9</sup>

**The CPT calls upon the Estonian authorities to adopt specific legal provisions on access to a doctor which meet fully the above requirements.**

25. As regards medical screening of persons arriving in police detention houses, the CPT has been critical of the practice followed in this regard in the past. The findings of the 2012 visit suggest that the problem has not been fully resolved.

The delegation was informed that initial medical screening was performed in five police detention houses<sup>10</sup> (which benefited from the presence of health-care staff). For example, the delegation noted at Jõhvi and Tallinn Detention Houses that the medical screening of detained persons was usually carried out by a nurse within 24 hours of admission. Injuries were recorded in the inmate's medical file.

However, in other detention houses, it was the custodial staff who filled out a questionnaire<sup>11</sup> about the state of health of newly-admitted detained persons. Regardless of the training that such staff may receive for this task, such an approach is clearly not satisfactory.

**The CPT calls upon the Estonian authorities to take immediate steps to ensure that all persons admitted to a police detention house are thoroughly screened by a health-care professional without delay. The record drawn up following that screening should contain: (i) a full account of objective medical findings based on a thorough examination, (ii) a full account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's conclusions in the light of (i) and (ii), indicating, as far as possible, the consistency between any allegations made and the objective medical findings.**

**Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.**

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<sup>9</sup> It being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense.

<sup>10</sup> The detention houses in Jõhvi, Narva, Pärnu, Tallinn and Tartu.

<sup>11</sup> This questionnaire aims at identifying persons who may constitute a health risk as well as recording any injuries on persons entering police detention houses. The delegation was told that staff had received training prior to the introduction of this questionnaire.

26. Specific reference should be made to the case of a detained person met by the delegation at Rakvere Detention House. The person concerned had arrived on a Saturday afternoon with several wounds<sup>12</sup> from an earlier fight. He was only examined by health-care staff the following Monday. He claimed that he had fainted in his cell during the weekend. The video-recording from the corridor showed that the duty police officer had not regularly monitored the cell of this person, as he was supposed to do vis-à-vis all detained persons. This case demonstrates the necessity of ensuring not only appropriate medical screening on arrival but also careful monitoring of detained persons, in particular those at risk. **The CPT requests that the Estonian authorities review the procedures at Rakvere Detention House in the light of the above-mentioned case.**

d. information on rights

27. Before their placement in custody, detained persons were requested to sign an information sheet (available in different languages) which contained excerpts from various legislative acts concerning their rights and duties. The delegation noted that detained persons were in most cases provided with a copy of this information sheet; however, it was drafted in a rather complex and legalistic manner and thus was not very user-friendly. Further, it appeared that detained persons usually did not receive any verbal information about their rights upon apprehension.

**The CPT calls upon the Estonian authorities to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information upon apprehension, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person’s rights in a straightforward manner.**

**Moreover, particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.**

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<sup>12</sup> A cut in the upper eyebrow (stitched by an ambulance crew), injury to an eye, and pain in the jaw, both cheeks and the right knee.



#### 4. Conditions of detention

##### a. police detention houses

28. At the outset of the visit, the Estonian authorities informed the CPT's delegation that the old police detention houses at Jõgeva, Kohtla-Järve and Rakvere, which had previously been criticised by the Committee, had been closed down. New detention houses had been constructed at Jõgeva, Jõhvi and Rakvere, and one at Kuressaare was to be opened by the end of 2012. In addition, a new detention facility at Narva was under construction at the time of the visit and, according to the authorities, was expected to enter into service by April 2013. Reference was also made to a refurbishment programme which would include some old detention houses.

The CPT welcomes these developments; **it would like to be informed of the progress of refurbishment of the existing police detention facilities, including the timeframe for these works. Further, the Committee would like to receive, in due course, confirmation of the entry into service of the new detention houses in Kuressaare and Narva.**

29. The delegation observed very good material conditions at the new detention houses at Jõhvi and Rakvere. In both establishments, cells were of an adequate size for their intended occupancy<sup>13</sup> and equipped with single or bunk beds (with full bedding) and a table. They were also clean, adequately lit (including access to natural light) and well heated and ventilated. The cells had a small sanitary annexe consisting of a washbasin and a toilet; however, the in-cell toilets were not properly partitioned, which constitutes a significant shortcoming in cells occupied by more than one person. **The CPT recommends that the sanitary annexes in multi-occupancy cells be fully separated from the rest of the cell by solid partitioning.**

30. At Narva Detention House, conditions of detention remained basically unchanged since previous visits; as the CPT has made clear in the past, they are unacceptable. The Committee shall refrain from making any further recommendations concerning this detention house, in view of the fact that the new detention facility is scheduled to enter into service in a few months' time.

With reference to the immediate observation referred to in paragraph 6, the CPT is pleased to note from the Estonian authorities' letter of 28 September 2012 that Cell No. 5 is no longer being used for detention purposes. **The Committee also trusts that Cells K1 and K2 will never be used again to accommodate a detained person, even for a short period of time.**

31. Material conditions at Haapsalu Detention House were quite simply appalling. Most of the cells, in addition to being very small<sup>14</sup>, were in an extremely poor state of repair, filthy and badly ventilated. Moreover, they had limited or no access to natural light and only dim artificial lighting. The custody registers revealed that detained persons (including juveniles) had recently spent up to several weeks locked up in such cells 24 hours a day.

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<sup>13</sup> For example, at Jõhvi, single and double cells measured some 8 and 16 m<sup>2</sup> respectively.

<sup>14</sup> Some cells measured less than 5 m<sup>2</sup>.

32. As already mentioned (see paragraph 6), at the end of the visit, the delegation made an immediate observation requesting the Estonian authorities to make plans to take Haapsalu Detention House out of service. The delegation further requested that three cells (Nos. 2, 3 and 4), which had no access whatsoever to natural light, be withdrawn from service immediately and not be used again until such time as access to natural light was provided.

In their letter of 28 September 2012, the Estonian authorities stated that it was intended to renovate Haapsalu Detention House and that in the meantime no persons will be placed in Cells Nos. 2, 3 and 4. Whilst welcoming this information, **the CPT would like to receive a detailed account of the renovation work envisaged, including a description of the planned cellular accommodation, outdoor exercise facilities, etc.**

33. As regards Tallinn Detention House, the delegation observed that certain improvements to the material conditions had been made since the previous visit (see also paragraph 35). In particular, the overall state of repair and level of hygiene of the cells was now satisfactory. However, it remained the case that many cells were overcrowded (e.g. four persons in some 11.5 m<sup>2</sup>) and had very limited access to natural light. Further, the in-cell toilets were only partially partitioned.

34. **The CPT recommends that the Estonian authorities pursue their efforts to provide appropriate conditions of detention at Tallinn Detention House. This should involve measures to ensure that:**

- **the official occupancy levels of cells provide for at least 4 m<sup>2</sup> of living space per person in multi-occupancy cells (not counting the area taken up by in-cell toilets);**
- **cells have access to natural light as well as adequate artificial lighting (i.e. sufficient to read by, sleeping periods excluded).**

Further, **steps should be taken to ensure that the in-cell toilets are fully partitioned (i.e. from floor to ceiling). The CPT trusts that this requirement will also be met in the context of the construction of new detention houses (including Narva Detention House) and refurbishment of existing ones (such as Haapsalu Detention House).**

35. The CPT was concerned to note that the regime offered to detained persons was impoverished in all the police detention houses visited and, at best, consisted of daily outdoor exercise of one hour. The new detention houses at Jõhvi and Rakvere were equipped with exercise yards. However, at Rakvere, access to the yard was not guaranteed on a daily basis. In the absence of any facility, no outdoor exercise was offered to inmates at Haapsalu and Narva Detention Houses.

As regards Tallinn Detention House, the delegation noted that, unlike during previous visits, the establishment now possessed an outdoor exercise yard, which was of a good size. The detention house also possessed a small gym which inmates could access on a sporadic basis. However, outdoor exercise was offered usually only every second day and lasted no longer than 30 to 40 minutes.

Thus, all detained persons, including juveniles, spent 23 hours or more per day locked up in their cells in a state of idleness for periods of weeks or even months.<sup>15</sup>

36. The CPT has already recommended that the practice of accommodating remand and sentenced prisoners in police detention houses be ended as soon as possible. For as long as this practice persists, **the Committee recommends that the Estonian authorities take measures to ensure that such prisoners are offered at least one hour of outdoor exercise every day in facilities of adequate size and possessing the necessary equipment (e.g. a shelter and means of rest).**<sup>16</sup> **In fact, anyone detained for 24 hours or more should be offered outdoor exercise every day.**

b. other police detention facilities

37. The delegation examined the detention facilities at the City Centre, East and South Police Stations in Tallinn, where persons were frequently held for 24 hours or longer. Some of the cells in the first two establishments were too small to be used as overnight accommodation (4 m<sup>2</sup> or less). Further, not all the cells in the East and South Police Stations were equipped with a means of rest (e.g. a fixed chair or bench).

**The CPT recommends that all cells in the above-mentioned establishments be equipped with a means of rest and that no cell measuring less than 5 m<sup>2</sup> be used for overnight accommodation.** The Committee considers that it would be desirable for police custody cells used as overnight accommodation to measure in the order of 7 m<sup>2</sup>.<sup>17</sup>

38. The CPT understands that, according to internal police regulations, persons detained for misdemeanour offences or for the purpose of sobering up are not provided with a mattress, even if they are held overnight. The delegation was told that such persons had to spend a night, or two, sleeping on a wooden platform or on the bare floor.

**The CPT recommends that steps be taken to ensure that all persons who are held in police custody overnight are provided with a clean mattress.**

39. Finally, reference should be made to the three waiting cells at Narva Police Department, which have been criticised by the CPT on more than one occasion<sup>18</sup> but which remained in use without any improvement having been made. The cells are very small (less than 2 m<sup>2</sup>), dark and, more generally, of an extremely oppressive design. As such, they are unfit for use as detainee accommodation for any length of time whatsoever. **The CPT calls upon the Estonian authorities to withdraw these cells from service immediately.**

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<sup>15</sup> For example, at Tallinn Detention House, the delegation met a remand prisoner who had been held there for nearly three months.

<sup>16</sup> See also Section 31(2) of the Internal Rules of Police Detention Houses.

<sup>17</sup> See also paragraph 43 of the CPT's 2<sup>nd</sup> General Report (CPT/Inf (92) 3).

<sup>18</sup> See, most recently, CPT/Inf (2011) 15, paragraph 42.

## **B. Establishments under the authority of the Ministry of Justice**

### **1. Preliminary remarks**

40. The Estonian penitentiary system has been vastly improved during the fifteen years since the CPT's first visit to the country in 1997. Possibly the most significant milestone in this process was the decommissioning in 2002 of the Central Prison, a former sea fortress in which conditions of detention were deplorable.

Since the CPT's last visit in 2007, the prison estate has been further enhanced by the opening of Viru Prison and the closing down of Viljandi Prison for convicted male juveniles, as well as by the transformation of the dormitory-style Murru Prison into a cell-based establishment.

41. During the present visit, the CPT's delegation examined the treatment and conditions of detention of inmates at Tallinn and Viru Prisons.

Tallinn Prison has been visited by the Committee on several occasions. This establishment is one of the last vestiges of a previous era remaining to be removed from the prison estate. Its replacement by a new prison in the Tallinn area has long been planned. However, the delegation was informed that the completion of the new prison – previously announced for 2011 – was not now envisaged before 2017 due to planning difficulties and budgetary constraints.

The prison has an official capacity of 1,179 places and at the time of the visit was accommodating 1,094 inmates, 664 sentenced and 430 on remand. The inmates included eight persons serving a life sentence, and the CPT is pleased to note that these prisoners were not held separately but instead had been integrated into the general sentenced inmate population. This is an example that certain other countries could usefully follow.

Viru Prison, in the town of Jõhvi, opened in March 2008. With an official capacity of 1,000 places, the prison was accommodating 938 prisoners at the time of the visit, 769 sentenced and 169 on remand. Viru Prison has the only reinforced supervision unit (also called "Supermax") of Estonia as well as a dedicated unit for sentenced juveniles (14 to 18 years old) and young offenders (18 to 21 years old), which was intended to hold all such prisoners in Estonia.

42. At the time of the visit, the Estonian prison population stood at 3,389 inmates (not counting 550 prisoners being held in police detention houses), i.e. an incarceration rate of some 250 prisoners per 100,000 inhabitants. Although significantly lower than at the time of the CPT's first visit in 1997, the current incarceration rate in Estonia is still very high in comparison with that of most other Council of Europe member States and remains considerably above the objective set by the Estonian authorities of a rate of 200 per 100,000 inhabitants by 2015.

The delegation was informed that the number of inmates had decreased recently thanks to the development of alternative measures such as conditional release and the introduction of electronic surveillance. However, the fact remains that Estonia continues to lock up an exceptionally large number of persons, a situation which cannot be convincingly explained away by a high crime rate; the general outlook of the law enforcement agencies, prosecutors and the judiciary must, in part, be responsible for this state of affairs. Old habits die hard, and Ministry of Justice officials acknowledged that one of the major challenges being faced in the context of the prison reform programme was to break the reflex inherited from earlier times of first putting people in prison and possibly thinking of alternative measures only afterwards.

43. Representatives of the Ministry of Justice indicated that prisoners in multi-occupancy cells had at least 4 m<sup>2</sup> of living space in the recently opened prisons of Tartu and Viru. However, the minimum legal standard of 2.5 m<sup>2</sup> of living space per prisoner as laid down in the Internal Prison Rules of the Ministry of Justice remained unchanged and was still applied in the other prisons. As the CPT has repeatedly made clear<sup>19</sup>, this standard is too low. The authorities indicated that they intended to raise the minimum standard to 4 m<sup>2</sup> when the new Tallinn Prison became operational (see paragraph 41).

44. Section 11<sup>1</sup> of the Imprisonment Act – entitled "Prohibition of overcrowding" – provides that "the number of prisoners in a prison shall not exceed the maximum number of prisoners established for the prison by the Minister of Justice". The Ministry should determine this maximum number, based on the individual prison's capacity to organise the living conditions, work, study and leisure activities of its prisoners. Section 11<sup>1</sup> will enter into force on 1 January 2015 and to implement this provision, the authorities intend – if necessary – to establish a waiting list of prisoners.

The CPT believes that the entry into force of Section 11<sup>1</sup> is the appropriate moment to finally implement the Committee's long-standing recommendation to raise the minimum standard of living space per prisoner to 4 m<sup>2</sup>, rather than making this essential step dependent on the entry into service of the new Tallinn Prison (whenever that might occur).

**The CPT recommends that the minimum standard of living space per prisoner be raised to 4 m<sup>2</sup> (not counting the area taken up by any in-cell toilet facility) by 1 January 2015, when Section 11<sup>1</sup> of the Imprisonment Act will enter into force.**

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<sup>19</sup> See, for example, CPT/Inf(2011) 15 paragraph 53.

More generally, the CPT encourages the Estonian authorities to pursue vigorously their efforts to combat prison overcrowding, by placing particular emphasis on non-custodial measures in the period before the imposition of a sentence, increasing the use of alternatives to imprisonment and adopting measures facilitating the reintegration into society of persons deprived of their liberty. In this context, they should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation Rec (99) 22 concerning prison overcrowding and prison population inflation, Recommendation Rec (2000) 22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole), Recommendation (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules.

Appropriate action should also be taken *vis-à-vis* the law enforcement agencies and prosecutorial and judicial authorities with a view to ensuring their full understanding of – and support for – the policies being pursued, thereby avoiding counterproductive pre-trial custody and sentencing practices.

## 2. Ill-treatment

45. The delegation received almost no allegations of physical ill-treatment by prison staff of inmates. However, a number of inmates in Tallinn and Viru Prisons reported having been the subject of verbal abuse (insults) by staff. Further, at Tallinn Prison the delegation received a few allegations of unnecessary use of force when dealing with an incident.

During meetings with the Heads of Security Department at Tallinn and Viru Prisons, the delegation was informed that in each of the establishments there had been a small number of allegations of ill-treatment of inmates by staff in recent times. For example, there had been six such cases during the first six months of 2012 at Tallinn Prison; however, in each case, the preliminary inquiry carried out by the Security Department had reached the conclusion that there had been no violation of the Penal Code.<sup>20</sup> As regards Viru Prison, in one case from the second half of 2011, three prison officers had been convicted of abuse of authority (Article 291 of the Penal Code); inquiries into two other cases of possible abuse of authority by staff were still ongoing.

**The CPT recommends that a clear message be delivered to prison staff at Tallinn and Viru Prisons that all forms of ill-treatment of inmates, including verbal abuse and the excessive use of force when dealing with incidents, are not acceptable and will be punished accordingly.**

The Committee understands that following the above-mentioned case at Viru Prison in which prison officers were convicted of an offence under Article 291 of the Penal Code, a number of specific proposals were put forward with a view to preventing a recurrence of such acts; **it would like to receive further information on this subject.**

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<sup>20</sup> The delegation was informed that the decision of the Security Department could be appealed to the prosecutor's office.

46. In order to obtain a fully up-to-date and nationwide picture of the situation, **the Committee would also like to receive the following information, for the last 18 months:**

- **the number of complaints of ill-treatment made against prison staff and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by prison staff.**

47. As already indicated, investigations into allegations of ill-treatment by staff of a prison are carried out by the establishment's Security Department. This is not acceptable; such investigations should be carried out by a body which is independent of the prison concerned and preferably of the prison system as a whole.

**The Committee recommends that the Estonian authorities take immediate steps throughout the prison system to ensure that officers of security departments no longer carry out investigations into alleged instances of ill-treatment by prison staff.**

**Further, whenever a formal investigation is launched into allegations of ill-treatment of inmates by prison staff (or on the basis of other information indicative of possible ill-treatment), the staff members concerned should be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation.**

48. In both establishments, the delegation received some complaints from inmates that they had been the subject of inter-prisoner violence.

The Director of Tallinn Prison acknowledged that such cases did arise, and that the problem was particularly pronounced in buildings S1 and S2 (i.e. units IV and III), where the configuration of the premises made it more difficult for staff to exercise control. The Head of the Security Department informed the delegation that in five cases in 2012, criminal proceedings had been instituted against prisoners for violations of Article 121 of the Penal Code (physical abuse) *vis-à-vis* fellow inmates. He commented that injuries had been noted in some other cases, but there was not sufficient evidence to bring a prosecution. Health-care staff at Tallinn estimated that injuries resulting from inter-prisoner violence occurred at least once a week.

The Head of the Security Department at Viru Prison referred to 45 cases of inter-prisoner violence over the previous 12 months, the majority of which concerned the juveniles and young offenders unit. The delegation noted that the staff of that unit was carrying out regular visual checks of the upper parts of the bodies of all inmates, looking inter alia for possible traces of violence.

49. The issue of inter-prisoner violence has been raised in previous CPT reports and the Committee welcomes the steps taken to replace the large dormitories which existed in the past by cell-based establishments (see also paragraph 40). Another important tool for preventing inter-prisoner violence lies in the diligent examination by the prison administration of all relevant information regarding alleged inter-prisoner violence which may come to its attention and, where appropriate, the instigation of proceedings. The information gathered during the 2012 visit indicated that this was being done. More generally, the delegation gained the impression that efforts were being made by staff to prevent incidents of inter-prisoner violence.

As regards more specifically Tallinn and Viru Prisons, **the CPT trusts that the Estonian authorities will vigorously pursue their efforts to combat the phenomenon of inter-prisoner violence, with particular attention being paid to Blocks S1 and S2 at Tallinn Prison and to the juveniles and young offenders unit at Viru Prison.** In the report on the 2007 visit, the Committee stressed, inter alia, that the existence of positive relations between staff and prisoners, based on notions of dynamic security and care, is a decisive factor; such relations can help to overcome the habitual reluctance of victims, or witnesses, to denounce the perpetrators of inter-prisoner violence. In this connection, the CPT believes that the contact officer assigned to each individual inmate could play an even greater role in tackling the problem of inter-prisoner violence. **The Committee would like to receive the observations of the Estonian authorities on this subject.**

### 3. Tallinn Prison

#### a. general conditions of detention

50. Material conditions at Tallinn Prison have been described in detail in previous CPT reports<sup>21</sup> and there has been no fundamental change since the last visit in 2007. The conditions were substandard, a fact acknowledged by both the management of the prison and the national authorities.

The occupancy levels in all areas of the prison remained high. For example in the two main accommodation blocks, E1 and E2, many 15 m<sup>2</sup> cells were accommodating six persons. Such a rate of occupancy may be in accordance with the current internal prison rules, but for the CPT it amounts to serious overcrowding (see paragraph 43).

Further, most of the cells were dilapidated, poorly ventilated and in a poor state of hygiene (leaking pipes, mould in the sanitary facilities, etc.). One of the few positive points was that the in-cell sanitary facilities were fully partitioned.

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<sup>21</sup> See CPT/Inf (2005) 6, paragraph 52 and CPT/Inf (2011) 15, paragraph 63 regarding the remand section.



51. However, the delegation was informed that no further large-scale investment would be made in the current establishment given the plans to construct a new prison in the Tallinn area. Only limited repair work would be carried out, such as the refurbishment of the kitchen which was planned during the summer of 2012. Some investment was also being made, for example, in the installation of television sets in some of the communal rooms used by sentenced prisoners. In their letter of 28 September 2012, the Estonian authorities indicated that in 2012, there was a total budget of 56,448 Euros for refurbishment of the establishment (e.g. to repair an outdoor exercise yard and to equip other yards with benches).

52. As for the regime, it remained impoverished for all remand prisoners as well as for a large proportion of the convicted population. The vast majority of remand prisoners spent 23 hours a day confined to their poorly equipped and often overpopulated cells; their only regular out-of-cell activity was one hour of daily outdoor exercise which was taken in small yards (14 m<sup>2</sup>) of oppressive design. The delegation was informed that remand prisoners were allowed to follow a limited number of programmes<sup>22</sup> as well as to have access to the sports hall one hour every week. However, many remand prisoners interviewed were apparently not aware of the programmes available; **steps should be taken to remedy this situation.**

As regards the convicted population, only 138 out of 664 prisoners had work; they were involved in domestic duties including cleaning, cooking and food distribution. The Director expressed his regret that no further work could be provided to prisoners. In addition to the programmes available to remand prisoners, sentenced inmates were offered further activities including “aggressiveness replacement” training, traffic safety or pre-release programmes. However, as far as the delegation could ascertain, only a small number of inmates benefited from them.

53. The CPT has already recommended (see paragraph 44) that in the context of the entry into force of Section 11<sup>1</sup> of the Imprisonment Act in January 2015, the maximum authorised number of prisoners per establishment should be calculated on the basis of 4 m<sup>2</sup> of living space per prisoner (not counting the area taken up by any in-cell toilet facility). Obviously, **this recommendation should apply to Tallinn Prison if it is still in service at that time.**

**Further, the CPT calls upon the Estonian authorities to ensure that the detention areas, related sanitary/washing facilities and outdoor exercise areas are maintained in – and as necessary restored to – a satisfactory state of repair and hygiene.** This constitutes a basic obligation of the State *vis-à-vis* persons who it deprives of their liberty.

**The Committee also invites the Estonian authorities to allow more frequent access to shower facilities, taking into account Rule 19.4 of the European Prison Rules.**<sup>23</sup> At the time of the visit, prisoners were entitled to shower only once a week.

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<sup>22</sup> Anger management, life style education, social skills, Estonian language course and stop smoking programmes.

<sup>23</sup> Rule 19.4 reads: “Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene.”

54. The cells in units III and IV, which were used to accommodate sentenced prisoners including those with a job, did not have in-cell sanitation. A number of prisoners complained about delays – on occasion, for up to one hour – in gaining access to the toilet during the night. Recently, the NPM drew similar conclusions.<sup>24</sup> **The CPT recommends that steps be taken to ensure that all prisoners held in the establishment who need to use a toilet facility are able to do so without delay at all times, including at night.**

55. It is clearly unrealistic in the present premises of the Tallinn Prison to offer a satisfactory programme of out-of-cell activities (education, sports and recreational activities) to remand prisoners. However, the introduction of association periods with prisoners from other cells for some hours per day should certainly be feasible from a practical standpoint. **The CPT recommends that such periods be introduced; if necessary, the relevant provisions of the Imprisonment Act should be amended.**

As regards sentenced inmates, **the CPT recommends that efforts be made to enhance the programme of out-of-cell activities and in particular to provide work (preferably of a vocational value) to a larger number of prisoners.**

b. the disciplinary unit

56. The CPT is very concerned by the conditions found in Tallinn Prison's disciplinary unit (Block K1). The cells were poorly ventilated and had very little access to natural light, and many of them were in a dilapidated state. Moreover, the delegation was told by several inmates interviewed separately who had spent time in Block K1 during the winter that it had been extremely cold in the cells. More generally, the cells had a pervasively oppressive atmosphere. The same was true of the Unit's so-called exercise areas, i.e. rough-walled cubicles each measuring some 4 to 5 m<sup>2</sup>, devoid of a shelter or any other equipment and offering only a view of the sky through a meshed grill. It was not uncommon for inmates to be held for more than a week in such conditions and on occasion longer.

57. As was stressed by the delegation during the end of the visit talks (see paragraph 6), a facility such as Block K1 should not exist at the outset of the 21<sup>st</sup> century. The CPT welcomes the fact that following its delegation's immediate observations on this subject, two of the cells in that Block - cells Nos. 76 and 85 - in which conditions were appalling have been taken out of service (see letter of 28 September 2012). However, the overall situation in Block K1 is so poor that it cannot wait until the entry into service of the new Prison to be remedied. The CPT is convinced that a way could be found - without excessive cost - to locate the disciplinary cells elsewhere within the establishment's premises. In this respect, the delegation found another disciplinary cell located in Block E2, i.e. cell 402, in which conditions of detention were adequate. **The CPT calls upon the Estonian authorities to take Block K1 at Tallinn Prison out of service without delay.**

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<sup>24</sup> 2011 Overview of the Chancellor of Justice activities, Chancellor of Justice as the Preventive Mechanism, Chancellor of Justice as Ombudsman for Children, Statistics of Proceedings, Tallinn 2012, p. 11.

c. juvenile prisoners

58. In principle all juvenile prisoners of the country, both on remand and sentenced, were held at Viru Prison. However, at the time of the visit four juveniles were temporarily held at Tallinn Prison as they had a case pending before a court in the city. In the absence of a dedicated unit for juveniles, they were detained in Block K1, two of them in a relatively large cell<sup>25</sup> which was well lit and reasonably equipped (and not used for disciplinary purposes) and two in ordinary disciplinary cells. They all had daily access to outdoor exercise for one hour and one could continue his schooling.

In their letter of 28 September 2012, the Estonian authorities indicated that three of the minors had been brought into Tallinn Prison for the same court hearing and therefore had to be detained separately. The Committee fully recognises that persons involved in the same criminal case may well have to be held apart. However, this is no justification for placing a juvenile in an oppressive environment such as the one offered by disciplinary cells in Block K1.

**The CPT recommends that juveniles temporarily placed at Tallinn Prison be accommodated in facilities which fully respect their physical and mental integrity.**

d. female prisoners

59. The delegation noted that the cells dedicated to female prisoners were in the same corridor as one containing cells for male prisoners. Despite the fact that these women were on remand and therefore not allowed to associate with persons other than their cellmates, such an arrangement is not satisfactory. The CPT considers that female prisoners should be held in accommodation which is physically separated from that occupied by male prisoners. **The Committee recommends that the Estonian authorities take steps to guarantee this separation.**

In addition, **the recommendation already made in paragraph 55 concerning the introduction of association periods also applies to the female remand prisoners at Tallinn Prison.**

60. The delegation received complaints from female prisoners regarding difficulties in obtaining hygiene products. **The CPT recommends the Estonian authorities to ensure that female prisoners have access to adequate quantities of essential hygiene products.**<sup>26</sup>

Further, **the comment already made in paragraph 53 concerning increased access to showers also applies to female prisoners at Tallinn Prison.**

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<sup>25</sup> The cell measured some 27 m<sup>2</sup> and was equipped with toilet and a washbasin.

<sup>26</sup> See also Rule 19.7 of the European Prison Rules.

#### 4. Viru Prison

##### a. general conditions of detention

61. The material conditions at Viru Prison were on the whole satisfactory. A standard cell measured some 10 m<sup>2</sup>, including a fully partitioned sanitary annex - of approximately 1.5 m<sup>2</sup> - equipped with a toilet and a washbasin (plus a shower in cells used to accommodate remand prisoners). The cells were well-equipped (table, chairs, lockers, etc) and enjoyed good access to natural light - and a good view - through large windows as well as adequate artificial lighting.

Prisoners were held one or two to a cell. The amount of living space was good for single occupancy and acceptable for double occupancy.

62. It should be noted nevertheless that the cell windows could not be opened and a number of prisoners claimed that the ventilation system was inadequate in the summer, leading to stuffy conditions. The prison management recognised that the ventilation system could cause problems in hot weather. It was indicated that on such occasions, the windows in the corridor could be removed, cell-hatch doors left open and additional outdoor exercise time offered. However, none of the prisoners interviewed by the delegation could recall such measures having been taken.

**The CPT recommends that the Estonian authorities take the necessary measures to ensure that all cells at Viru Prison are adequately ventilated at all times of the year.**

**In the context of future construction/renovation of penitentiary establishments, the Committee considers that it would be desirable for it to be possible to open a part of cell windows.**

63. In the context of such a recently constructed building, conditions in the outdoor exercise yards came as something of a disappointment. There were not particularly spacious, ranging from 23 m<sup>2</sup> to as little as 16 m<sup>2</sup>, many of them were not equipped with a means of rest and not all of them had a shelter against inclement weather. Moreover, most of the yards were situated at rooftop level.

**The Committee recommends that all outdoor exercise yards at Viru Prison be equipped with a means of rest and shelter. The Committee also invites the Estonian authorities to rethink the design of outdoor exercise facilities; in particular they should be sufficiently large to allow prisoners to exert themselves physically and, as far as possible, be located at ground level.**

64. An open door regime was applied to most of the sentenced inmates at Viru Prison, which allowed them to be out of their cells in the morning or in the afternoon. According to information provided, job opportunities were offered in various workshops (including woodwork, metalwork, laundry and packing screws) for some 100 prisoners and 228 sentenced prisoners were working on different tasks linked to the running of the prison (food preparation and distribution, cleaning, etc). Additionally, prisoners had access to education<sup>27</sup>, an Estonian language course<sup>28</sup> as well as a limited number of activities such art classes, sport – one hour per week -, social program or music.

As for the establishment's 169 remand prisoners, they were subject to the same impoverished regime as that applied in Tallinn Prison i.e. 23 hours a day in cell and one hour of outdoor exercise. This is all the more disturbing given that, unlike at Tallinn Prison, the facilities are available at Viru Prison to provide a satisfactory programme of activities.

**The CPT trusts that efforts will continue to be made to ensure that all sentenced prisoners at Viru Prison have access to an appropriate range of work (preferably with vocational value), educational, sport and recreational activities.**

**Further, the CPT recommends that the Estonian authorities take steps, as a matter of urgency, to radically improve the regime activities for remand prisoners at Viru Prison. The aim should be to ensure that such prisoners are able to spend a reasonable part of the day outside their cell, engaged in purposeful activities of a varied nature.**

b. reinforced security unit ("Supermax")

65. The so-called "Supermax" unit was a self-contained facility located on the fourth floor of the building used to accommodate remand prisoners. It was holding 39 inmates at the time of the visit.

In every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures *vis-à-vis* such prisoners brings with it a greater risk of inhuman treatment.<sup>29</sup>

66. The Supermax unit possessed some 40 cells located in two distinct sections, the two sections being themselves divided into two subsections accommodating approximately 10 prisoners each. The cells were of the standard type already described (see paragraph 59) and almost all of the inmates, at the time of the visit, were being held one to a cell. In other words, the in-cell material conditions do not call for particular comment.

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<sup>27</sup> 86 inmates received general education, two higher education and 78 vocational training.

<sup>28</sup> 122 prisoners were attending this course.

<sup>29</sup> See further the 11<sup>th</sup> General Report on the CPT's activities, CPT/Inf (2001) 16, paragraph 32.

67. As regards the regime, the inmates of a given subsection were allowed to leave their cells for a total period of four hours per day, spread over the morning, afternoon and early evening during which time they were able to associate and have access to a good-sized common area containing a table and chairs, a television, exercise equipment, table-football and board games. In addition, outdoor exercise could be taken in pairs. It is also noteworthy that members of staff were present inside the corridor and common area during this period and interacted with the inmates. Overall the internal atmosphere within the unit appeared to be relatively positive.

68. However, the range of organised activities on offer at the time of the visit was very limited. Art and music groups as well as the showing of films were arranged from time to time in a designated activities room but did not amount to more than one to two hours per week for a given prisoner. Three prisoners were receiving basic education and one was engaged in mending books. The only other work activity was to clean the communal areas of the unit, a task which most of the inmates refused to perform (see also paragraph 76).

The existence of a satisfactory programme of activities is just as important - if not more so - in a high security unit as on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners.

Clearly, at the time of the visit, the activities available in the "Supermax" unit did not meet these criteria. However, the delegation was informed that there were plans to set up additional activities; in particular, a small workshop was due to be set up. The delegation was subsequently informed that a new work activity has been introduced (packing boxes) in which three prisoners were already involved and plans were being made to employ another seven. An application has also been made for an additional vocational education group.

**The CPT encourages the Estonian authorities to further develop the programme of activities offered in the "Supermax" unit, taking into account the above-mentioned criteria. In this regard, it would like to receive a description of all the activities currently on offer, with an indication of the number of prisoners involved in each of them and for how many hours per week.**

c. juvenile prisoners

69. Sections for sentenced juveniles (14 to 18 years old) and young offenders (18 to 21 years old) were located in a three-storey building and had some 95 cells of the standard-type already described (see paragraph 61). Almost all the inmates were accommodated two to a cell. At the time of the visit, there were 19 sentenced juveniles and 126 sentenced young offenders; 16 young offenders with a drug addiction history were held in a separate section.

70. In addition to a daily access to an outdoor exercise yard for one hour, juveniles and young offenders had weekly access to the sports hall - where they could play team sports - and were allowed to use, for several hours per day when cell-doors were opened, the common room of their corridor which was equipped with board games, a television and fitness equipment.

71. Regarding organised activities and education<sup>30</sup>, several juveniles and young offenders indicated that they attended school within the prison and could obtain related diplomas. The prison was equipped with dedicated class rooms. A limited number of vocational training courses<sup>31</sup> and social activities were also offered to juveniles and young offenders. In this context, **the Committee would like to receive detailed information regarding the different activities, programmes and educational (basic education and further) and vocational training courses offered, including as to the number of juveniles and young offenders involved in each of them and for how many hours per week.**

72. The delegation heard several allegations of collective punishments – such as restrictions of association periods – in the juvenile ward, when the perpetrator of an offence had not been identified. Any form of collective punishment is unacceptable and, more specifically, would constitute a violation of Section 63 (3) of the Imprisonment Act. **The CPT recommends that the Estonian authorities take steps to ensure that such punishments are not applied.**

73. Regarding the food provided to juveniles, the Viru Prison administration indicated that juveniles (as well as workers) were served an increased quantity of food to meet their specific caloric needs. However, all juveniles and young offenders met by the delegation complained of the quantity of the food served and several claimed to have lost weight since entering the prison.

The delegation also heard complaints that certain staple food items, such as fresh fruit, were being made available in the context of the motivation programme as a reward for good behaviour rather than being included in the menus.

The food provided to prisoners should be sufficient to ensure their well-being. This is particularly important for young persons, who may not have reached their full growth potential. In such a case, the consequences of inadequate nutrition may become evident more rapidly – and be more serious – than for those who have reached full physical maturity. Therefore, **the Committee recommends that the relevant authorities carry out a full review of the food provided to juveniles and young offenders at Viru Prison in order to ensure that it is sufficient not only in terms of quality but also in terms of quantity.**

74. Another major concern regarding juveniles at Viru Prison relates to the use of solitary confinement for disciplinary purposes. This issue is developed in the section below.

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<sup>30</sup> Section 84 (1) of the Imprisonment Act provides that “Young prisoners of up to 18 years of age are required to acquire basic education to the extent prescribed by law. Young prisoners shall be granted an opportunity to acquire vocational education according to their wish and aptitude.”

<sup>31</sup> Including on welding, carpentering, cooking, electricity, ceramic.

d. solitary confinement

75. As already indicated (see paragraph 6), at the end of the visit the CPT's delegation made an immediate observation concerning the excessive use being made of solitary confinement at Viru Prison, in particular for disciplinary purposes and in relation to both adults and juveniles. The response of the Estonian authorities to this observation has not removed the Committee's concern.

According to the records consulted by the delegation, more than 570 decisions of placement in a punishment cell had been pronounced *vis-à-vis* inmates during the six first months of the year, with 30 of them for the maximum permitted period of 45 days and another 17 for a period in excess of 30 days.<sup>32</sup>

During the same period, 90 decisions of placement in a punishment cell were taken in respect of juveniles. One juvenile had served a total of 86 days of solitary confinement for disciplinary purposes in that period.

76. As the Committee has made clear in the past, it considers that the 45-day maximum period of placement in a punishment cell for adult inmates is too high and should be substantially reduced; the same is true of the 20-day maximum permitted period for juveniles. Moreover, the delegation found that at Viru Prison, separate sanctions of solitary confinement were often being applied consecutively (without any interruption), with the result that there were cases of prisoners who had been held continuously for months in a disciplinary cell - in some cases for up to 200 days. As regards juveniles, consecutive periods of solitary confinement of more than 30 days were observed. This is totally unacceptable.

It is also noteworthy that placement in a disciplinary cell was often being used to punish prisoners who refused to work, and more specifically to carry out cleaning duties.<sup>33</sup> It was argued that this approach was necessary to combat the "criminal subculture", which included a belief that one should not work for the State. For its part, the CPT considers that irrespective of the underlying goal, resorting to lengthy periods of disciplinary confinement as a means of obliging prisoners to work is not an appropriate use of that sanction, the most severe of the panoply of sanctions available.

As the delegation made clear at the end of the visit, solitary confinement is a measure which can have an extremely damaging effect on prisoners' health. The CPT has particularly strong reservations as concerns any form of solitary confinement of juveniles. For this age group, the placement in solitary confinement can easily compromise their physical and/or mental integrity.

**The CPT calls upon the Estonian authorities to carry out a full review of the use being made of solitary confinement as a disciplinary sanction at Viru Prison with a view to ensuring that it is only imposed exceptionally as a measure of last resort, is proportionate to the offence committed and is applied for the shortest possible period of time** (reference should also be made to the remarks and recommendations made in paragraph 95).

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<sup>32</sup> For the same period of time, the maximum disciplinary measure was of 25 days at Tallinn Prison.

<sup>33</sup> For example, at the time of the visit, nine of the 39 inmates of the Supermax Unit were subjected to this sanction for that reason.



## 5. Health-care services in the two prisons

77. Medical care in Estonian prisons is under the responsibility of the Ministry of Justice. However, prison health-care services have to be organised pursuant to the Health Services Organisation Act, and the Health Board, an agency of the Ministry of Social Affairs, is competent to monitor the quality of health care in prisons. During its dialogue with the Minister of Social Affairs, the delegation was informed that the transfer of prison health-care services from the Ministry of Justice to the Ministry of Social Affairs remained under consideration. **The CPT would like to receive detailed information on this subject.**

78. Health-care staff at Tallinn Prison included five general practitioners working four full-time equivalent (FTE) and 1.5 FTE dentists, as well as several part-time specialists (radiologist, neurologist, psychiatrist, specialist in infectious and pulmonary diseases). One psychiatrist's post was vacant at the time of the visit. The delegation was informed that, as from 1 June 2012, two psychologists would be employed in the remand unit. The prison also employed 14 nurses.

Despite what would appear to be a sufficient number of health-care staff, the delegation received numerous complaints regarding difficulties in making an appointment with a doctor or a specialist such as a dentist or psychiatrist. **The CPT would like to receive the observations of the Estonian authorities on this issue.**

79. At Viru Prison, the health-care staff included two full-time general practitioner's posts. However, one of them had been vacant since February 2012 and the other one had only been occupied 0.25 FTE since September 2011. A specialist in internal medicine was working partly as a prison general practitioner and the prison had 12 nurses. The establishment also had a budget for two full-time psychiatrists as well as a full-time dentist and dental nurse; however, at the time of the visit, there was only 1.2 FTE psychiatrists, and a dentist and a dental nurse for half of the week. A number of specialists (neurologist, traumatologist, dermatologist, urologist, ophthalmologist, and radiologist) were on contract with the Prison to intervene on a regular basis.

The delegation heard a large number of complaints from prisoners about the long delays in receiving medical care. In the CPT's view, the current health-care staff resources at Viru Prison are insufficient to meet the needs of prisoners in an establishment which accommodates some 1,000 prisoners. The almost total absence of a general practitioner working within the Prison only allowed for the treatment of very urgent matters. Further, the situation appeared to be particularly precarious regarding dental and psychiatric care. The dentist, being present for only half of the week, could not even secure the minimum dental care for the prison population. Regarding psychiatry, one psychiatrist was working full-time while his colleague was present for only one day per week. Considering the large number of prisoners that required psychiatric attention, particularly juveniles, young offenders, and drug-addicted prisoners, the presence of psychiatrists was not sufficient to provide adequate care to all prisoners in need of treatment.

The CPT welcomes the fact that one of the GP posts at Viru Prison is now filled on a full-time basis (see letter 28 September 2012). Nevertheless, **the CPT recommends that the Estonian authorities review the health-care staff resources at Viru Prison, in the light of the above remarks. Urgent steps should be taken to fill the partly vacant psychiatrist's and dentist's posts as well as the second general practitioner's post, and consideration should be given to recruiting a third full-time general practitioner, bearing in mind that the health-care service is also partly responsible for the adjacent Jõhvi Police Detention House. Reinforcement of the nursing staff resources would also be desirable.**

80. Regarding the work of nurses, the delegation was informed at both prisons that in addition to nurses working during the day, usually from 8 a.m. to 4 p.m., at least one nurse was working a 24-hour shift. In the CPT's view, a 24-hour working schedule will inevitably have negative effects on professional standards and can put at risk the health of inmates. The delegation was informed that 24-hour shifts have formally been abolished, at least for prison officers. **The CPT recommends that steps be taken to ensure that such shifts are discontinued in practice in the health-care services of Tallinn and Viru Prisons and in all other Estonian prisons.**

81. In both prisons, medical screening of newly arrived prisoners was carried out by a nurse, usually within 24 hours. The height, weight and blood pressure of the prisoners were recorded and a chest X-ray was performed. Medical files appeared, on the whole, to be well kept.

Signs of injuries on admission or whilst in prison were recorded. In this connection, **the recommendations already made in paragraph 25 apply equally to the medical screening of newly-arrived prisoners as well as of inmates following a violent episode in prison.**

82. Medication was prepared by health-care staff and put into individual boxes to be distributed to inmates. According to a Ministry of Justice regulation<sup>34</sup>, the distribution of medication must be carried out by prison officers, with the exception of certain specific medication such as narcotic and psychotropic drugs which should be distributed by health-care staff only. Although this rule is generally applied appropriately, the delegation was informed that on some occasions – at least at Viru Prison – psychotropic drugs were distributed by prison officers.

**Steps should be taken to ensure that psychotropic drugs are always distributed by health-care staff, as provided for by national legislation. Preferably, all medication should be distributed by health-care staff.**

83. Regarding the searches of body cavities, particularly of female prisoners, the delegation received confusing information as to how and by whom such intrusive examinations were carried out. It was not possible in either prison to determine from the information provided whether these examinations were carried out by health-care or security staff. In the CPT's opinion, such examinations should only be carried out by a medical practitioner, who is not the treating doctor of the prisoner concerned, and under conditions which respect physical safety and human dignity. **The Committee would like to receive precise and up-to-date information on the protocol regarding body-cavity searches, as well as on who may apply this protocol.**

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<sup>34</sup> Regulation No. 44 of 5 September 2011, Section 38, paragraph 2.

84. At both prisons, the CPT noted that acts of self-harm by prisoners, particularly on the abdomen and arms, were not uncommon. The delegation was informed that the prisoners concerned were required to reimburse any medical expenses involved. This approach is inappropriate. In the CPT's view, acts of self-harm frequently reflect problems and conditions of a psychological or psychiatric nature. **The Committee recommends that the Estonian authorities take the necessary steps to ensure that acts of self-harm are approached from a therapeutic rather than a punitive standpoint.**

85. Regarding transmissible diseases, screening and treatment of HIV/AIDS and tuberculosis appeared to be handled in an appropriate way. However, **the prevention of sexually transmissible diseases could be improved, inter alia, by the provision of information to inmates concerning methods of transmission, and the supply of appropriate means of protection analogous to those used in the community at large.**

Hepatitis, and particularly hepatitis C, was not dealt with properly. There was no routine screening of prisoners and no records kept of cases found. **The Committee encourages the Estonian authorities to take the necessary steps to improve this situation.**

86. Some inmates of the "Supermax" unit in Viru Prison indicated to the delegation that medical confidentiality was not respected as the door of the medical room remained open when they were examined by a doctor. Prisoners were advised to whisper to doctors if they did not wish to have their discussion heard by custodial staff. As for medical examinations in an outside hospital, they were apparently undertaken in the presence of prison staff.

For the CPT, there can be no justification for such situations, which are detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. **The Committee recommends that steps be taken to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.**

87. A large number of prisoners were addicted to drugs; reportedly 26% of the prison population had a drug-related background. To prevent withdrawal symptoms, a 10-day drug treatment regime was offered on admission for those in need. Substitution therapy was only offered to prisoners who had been already receiving such treatment prior to their admission. In these cases, drug dosages were reduced progressively for 6 months. Exceptions could be made for prisoners serving sentences shorter than a year. Other prisoners were offered a detoxification programme. The delegation gained the impression that, despite the large number of drug-addicted prisoners, neither of the prisons had a developed policy to effectively combat the problem of drug abuse.

**The CPT invites the Estonian authorities to draw up a comprehensive strategy for the provision of assistance to prisoners with drug-related problems.** The assistance offered to such prisoners should be varied and include both detoxification programmes and substitution programmes for drug-dependent inmates, combined with genuine psycho-social and educational programmes.

88. Prisoners suspected of drug abuse who refuse to give a urine sample can be subject to forcible urine tests by inserting a catheter in the bladder while being fixated.<sup>35</sup> The delegation was informed that the procedure, which is based on provisions of the Code of Criminal Procedure, was practised on very rare occasions.

In its report on the 2007 visit, the CPT recommended that an immediate end be put to this practice. In their reply<sup>36</sup>, the authorities insisted that it was a measure of last resort, carried out under close medical and legal supervision. They considered that the fight against crime in prisons outweighed the potential uncomfortable physical or psychological condition of an individual.

The CPT is particularly concerned by the fact that inmates are fixated as a security measure with the active participation of health-care staff, and that a forcibly intrusive procedure to obtain a urine sample is administered which is inevitably humiliating and potentially damaging for an inmate's health. The Committee remains of the opinion that it may well amount to inhuman and degrading treatment; consequently, other solutions should be sought. There are less invasive methods of securing evidence in such cases (e.g. saliva test); alternatively, consideration might be given to approaches followed in the legal systems of certain other Council of Europe member States. **The CPT calls upon the Estonian authorities to put an immediate end in all prisons to the practice of forcible urine testing.**

## 6. Food provided to prisoners

89. The delegation was informed that prisons have a daily budget for food of 1.03 Euros per prisoner and that menus are elaborated in accordance with a specific Ministry of Social Affairs regulation.<sup>37</sup> Further, prison food was said to be monitored by the Health Protection Inspectorate of the Ministry of Social Affairs. That said, the delegation was inundated at both prisons with complaints about the food provided to prisoners.

As already indicated (see paragraph 73), at Viru Prison most of the complaints were made by juveniles and young offenders and concerned predominantly the quantity of the food served. At Tallinn Prison, complaints related in the main to both the quality and the lack of variety of the food provided. In this context, it should be noted that health-care staff at Tallinn Prison stated that gastric problems among inmates was one of the most important challenges they faced; they suspected that those problems could be food-related.

90. The delegation was informed that every prisoner was weighed and measured at admission. However, there was apparently no follow up of these measurements. **The CPT recommends that the nutritional state of prisoners be assessed at admission by, inter alia, calculating the body mass index (BMI) of adult prisoners and drawing up a growth chart of those juveniles still in the process of growing. Afterwards there should be repeated measurements at reasonable intervals.**

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<sup>35</sup> The procedure was described in the CPT's report on the 2007 visit, CPT/Inf (2011) 15, paragraph 81.

<sup>36</sup> CPT/Inf (2011) 16, pages 5 to 9.

<sup>37</sup> Regulation No. 150 of the Minister of Social Affairs of 31 December 2002.

**Prisoners with a BMI <18.5, stagnating in growth or displaying an unintentional weight loss >5% in three months should be the subject of a nutritional intervention (receive additional food of good quality) and close follow up until the situation has been remedied.** It goes without saying that a thorough examination is needed to exclude (or treat when found) any disease that might contribute to the weight loss detected by the screening.

91. The CPT also wishes to underline the role of prison health-care services in this area. The task of such services should not be limited to treating sick patients. They should also be entrusted with responsibility for social and preventive medicine. In this regard, it lies with prison health-care services – as appropriate acting in conjunction with other authorities – to supervise catering arrangements (quantity, quality, preparation and distribution of food).<sup>38</sup> **The CPT recommends that the health-care services in all Estonian prisons adopt a proactive approach in this regard. Particular attention should be paid to the dietary requirements of certain groups of prisoners who might have specific needs.**

## 7. Other issues

### a. prison staff

92. The delegation noted that some staff openly carried telescopic truncheons, tear gas canisters and handcuffs in the detention areas. In the interest of promoting positive relations between staff and detainees, the CPT considers that prison staff should not carry such equipment as a matter of routine in detention areas. If it is deemed necessary for staff to be armed with such equipment, it should be hidden from view. **The CPT recommends that the Estonian authorities take the necessary steps to ensure that such equipment is not carried openly in detention areas.**

93. A large number of prisoners indicated that they often had difficulty communicating with some of the prison staff due to the absence of a common language. Several prison officers acknowledged this difficulty. Indeed, a number of inmates had limited or even no knowledge of the Estonian language and only spoke Russian. Although a number of prison staff understood or even spoke Russian, it regularly happened that custodial staff and prisoners could not understand each other.

In response to this difficulty, a letter (A, B or C) was printed on the prisoners' badges to indicate their level of Estonian. This classification had been made by the prison administration with the objective of facilitating communication. However, the delegation did not gain the impression that this had brought about an improvement; on the contrary, several inmates felt stigmatised by this classification. **The Committee would like to receive the observations of the Estonian authorities on the above-mentioned remarks and to be informed of further measures taken to resolve this linguistic challenge.**

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<sup>38</sup> In this context, reference should be made to Section 47 (2) of the Imprisonment Act according to which "the medical officer shall supervise the preparation of the prison's menu and the provision of food".

b. contact with the outside world

94. The rules regarding contact of prisoners with the outside world have remained unchanged since the CPT's last visit.<sup>39</sup> All prisoners were entitled to one telephone call for up to 10 minutes per week. As regards visits, all prisoners were allowed one "short-term visit" per month for up to three hours. Additionally, sentenced prisoners could have long-term visits from their family. In both prisons, prisoners were entitled to two such visits per year for up to three days.

The CPT considers that prisoners should be entitled to the equivalent of at least one hour of visiting time per week; **consequently, it recommends that the length of the monthly "short-term" visits be increased to four hours. Preferably, prisoners should be able to receive a visit every week.**

Short-term visits, including those for juvenile prisoners, were taking place in closed conditions, i.e. separated by a Plexiglas screen. The CPT accepts that, in certain cases, it may be justified, for security-related reasons, to prevent physical contact between prisoners and their visitors. However, open visits (e.g. with prisoners and their visitors sitting around a table) should be the rule and closed visits the exception, for all categories of prisoners. **The Committee recommends that conditions in the visiting facilities at the establishments visited (and, as appropriate, in other penitentiary establishments in Estonia) be reviewed accordingly.**

Material conditions in the long-term visit rooms at Tallinn and Viru Prisons were of a satisfactory standard. However, Article 25 (4) of the Imprisonment Act provides that the costs of the use of these rooms are to be borne by prisoners or their family. The delegation noted that, as a consequence, certain prisoners did not have long-term visits due to financial constraints. **The CPT invites the Estonian authorities to take the necessary steps to ensure that all prisoners can have long-term visits regardless of their financial resources.**

c. discipline

95. The CPT regrets that its recommendation made in 2007 to substantially reduce the maximum possible period of disciplinary confinement for adult sentenced prisoners as well as for juveniles has not been implemented by the Estonian authorities.

Given the potentially very damaging effects of solitary confinement, **the CPT recommends that the maximum period of solitary confinement as a punishment be no more than 14 days for a given offence, and preferably lower. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which it is felt call for more severe sanctions should be dealt with through the criminal justice system.**<sup>40</sup>

**The CPT recommends that the maximum possible period of placement in a disciplinary cell as a punishment for juveniles also be substantially reduced, preferably to a period not exceeding three days. Further, whenever juveniles are subject to such a sanction, they must be guaranteed appropriate human contact throughout the duration of the measure.**<sup>41</sup>

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<sup>39</sup> For further details, see CPT/Inf (2011) 15, paragraph 82.

<sup>40</sup> See also 21st General Report of the CPT's activities (CPT/Inf (2011) 28), paragraph 56 (b).

<sup>41</sup> See also 18th General Report on the CPT's activities (CPT/Inf (2008)25), paragraph 26.

96. Despite the CPT's recommendation in its reports on the 2003 and 2007 visits<sup>42</sup>, access to reading material was still restricted for prisoners in disciplinary cells.<sup>43</sup> Section 60 of the Internal Rules of Prison provided that only legislative and religious books were permitted in punishment cells. In its response to the latest CPT report, the authorities indicated that "in certain cases the prison can broaden the rights of a prisoner while in disciplinary cell".<sup>44</sup> However, during the visit, the delegation did not find any instance where a prisoner was allowed other types of book and prison staff did not appear to be familiar with this possibility. Therefore, **the Committee once again reiterates its recommendation that all prisoners placed in a disciplinary cell be allowed access to a broader range of reading material.**

97. Health-care staff should be informed of every placement of a prisoner in a disciplinary cell, or in any other form of solitary confinement, and should visit the prisoner immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in solitary confinement.<sup>45</sup>

The delegation noted that such regular monitoring was not ensured in either of the prisons visited, not even for juveniles. In this regard, it must be stressed that it should not be left to the concerned prisoner to request to see a member of the health-care staff. **The CPT recommends that the role of health-care staff *vis-à-vis* persons held in solitary confinement be reviewed, in the light of the above remarks.**

98. Disciplinary procedures were carried out in accordance with relevant national provisions.<sup>46</sup> Decisions were taken by the Head of Unit or the Governor on the basis of a recommendation and a report drafted by the contact officer. Decisions were delivered in writing in Estonian to the concerned prisoners. They had the possibility to present their views to the contact officer while the report on the incident was being drafted and to appeal the decision to the administrative court.

However, as had been the case at the time of the 2007 visit<sup>47</sup>, the Committee notes that prisoners facing disciplinary charges had no right to be heard in person by the Head of Unit or the Governor before he/she took a decision on the matter. Further, inmates were not provided with legal assistance. **The Committee recommends that the Estonian authorities review the procedure for placement in disciplinary confinement in order to ensure that the prisoners concerned i) are informed in writing of the charges against them, ii) have the right to legal assistance, iii) are given reasonable time to prepare their defence, and iv) have the right to be heard by the person who takes the decision, to call witnesses on their own behalf and to cross-examine evidence given against them. Further, inmates having difficulties in understanding Estonian should be provided with the necessary assistance.**

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<sup>42</sup> CPT/Inf (2005) 6, paragraph 81 and CPT/Inf (2011) 15, paragraph 86.

<sup>43</sup> Prisoners were entitled to have one hour of outdoor exercise per day, to send and receive letters and to make telephone calls while in disciplinary cells.

<sup>44</sup> See CPT/Inf (2011) 16, page 25.

<sup>45</sup> See also CPT's 21<sup>st</sup> General Report (CPT/Inf (2011) 28), paragraph 63.

<sup>46</sup> Sections 64 and 101 of the Imprisonment Act and Sections 97 to 99 of the Internal Rules of Prison.

<sup>47</sup> See CPT/Inf (2011) 15, paragraph 85.

d. complaints and inspection procedures

99. Inmates can lodge written internal complaints to the Prison administration. However, a number of them indicated that they had no confidence in this procedure as complaints about their contact officer to the Director were answered by the same contact officer. Furthermore, inmates who do not speak or write in Estonian may have difficulties in lodging a complaint. **The Committee invites the Estonian authorities to review the current system of complaints taking into account the above remarks; in particular, the reply to a complaint addressed to the Director should be signed by him/her.**

100. As indicated in paragraph 8, the NPM carries out unannounced and extended<sup>48</sup> visits to places of detention, including prisons, at least once every three years. It also receives complaints from prisoners.

101. In addition to the NPM, each prison has a Prison Committee composed of volunteers from civil society and designated by the Minister of Justice. The delegation met a prison committee representative from each of the prisons visited. The delegation was informed that the Prison Committee can only deal with inmates' complaints after the prison's internal remedies have been exhausted. Then it can assess whether the prison authorities have acted according to the law. The Tallinn Prison Committee rarely receives complaints from prisoners and had never visited a cell or met with a detained person since its appointment two years ago. In contrast, the Viru Prison Committee seemed to meet regularly with prisoners and visit different parts of the prison. The representatives of both prison committees pointed out that they did not have a working relationship or co-operate with the Estonian NPM.

102. During the visit, it became apparent that many inmates were not aware of the existence of either the prison committee or the NPM, and information on their role and function was not displayed in the units. **The CPT recommends that measures be taken to provide inmates with the necessary information, in a language they understand, on all existing external complaints and monitoring mechanisms.**

**It also invites the Estonian authorities to explore how the full potential of the Prison Committees can be realised and their synergy with the NPM promoted.**

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<sup>48</sup> As an example, the NPM inspection visit to Tallinn Prison in 2011 lasted from 7 to 29 March.



## C. Establishments under the authority of the Ministry of Social Affairs

### 1. Preliminary remarks

103. The CPT's delegation visited two establishments under the authority of the Ministry of Social Affairs, namely the Psychiatric Clinic of the North Estonia Medical Centre in Tallinn and Koluvere Care Home. Neither of these establishments had previously been visited by the Committee.

104. The Psychiatric Clinic of the North Estonia Medical Centre (NEMC), opened in 1903, is situated in a wooded park on the outskirts of Tallinn. The Clinic's premises consist of several two-storey buildings which have been in service for more than a century, and a newer building constructed in the 1980s. With an official capacity of 226 beds, the Clinic is the largest psychiatric establishment in Estonia, its catchment area covering approximately two-thirds of the country.<sup>49</sup>

On the first day of the visit, the Clinic was accommodating 183 patients, distributed among eight wards (depressive and neurotic disorders; acute non-psychotic disorders; acute psychiatric disorders; child and adolescent psychiatry; general psychiatry; integrative treatment of first-episode psychosis; two wards for chronic psychiatric disorders). Most of the wards had 20 to 30 beds and accommodated patients of both sexes (though in separate rooms).<sup>50</sup> There was a very high turnover of patients, with more than 3,000 admissions per year. The average length of hospitalisation was approximately 20 days. Seventy-four of the Clinic's patients had been hospitalised on an involuntary basis, pursuant to Section 11 of the Mental Health Act.

105. Koluvere Care Home, which was founded in 1963, is situated on extensive, forested grounds near the village of Koluvere, in western Estonia. With an official capacity of 183 places, it was accommodating 178 adult men and women (aged from 18 to 102 years) at the time of the visit, most of whom were long-term residents of the establishment. The Home consisted of three two-storey buildings. Buildings I and II held respectively 72 residents with chronic mental disorders (mainly chronic schizophrenia) and 66 residents with learning disabilities. Building III, which also housed the administration offices, held 27 residents who had been committed to the establishment by court order under Section 19 of the Social Welfare Act for "24-hour care with reinforced supervision" as well as 13 residents with severe multiple disabilities (both mental and physical).

106. During the meeting with the Minister of Social Affairs at the end of the visit, the delegation was informed of the Estonian authorities' plans for the deinstitutionalisation of residents of social care homes by promoting community-based care.<sup>51</sup> In particular, provision had been made to set up small family-type homes in various parts of the country and it was planned to have some 500 persons with mental disabilities living in the community in the near future.

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<sup>49</sup> The Clinic could also admit acute patients from outside the catchment area.

<sup>50</sup> Ward 4 (for chronic disorders) only accommodated female patients.

<sup>51</sup> The Koluvere Home already managed several "supported homes" located outside its premises, which accommodated more than 30 of its former residents.

The CPT welcomes the Estonian authorities' efforts to reorganise in this way the system of provision of care to persons with long-term mental health problems; **it would like to be informed of the progress made in the implementation of the above-mentioned plans.**

## **2. Ill-treatment**

107. In both the Clinic and the Care Home, the vast majority of patients/residents interviewed by the delegation spoke favourably about the manner in which they were treated by staff, and the delegation observed for itself that relations between staff and patients/residents in these establishments were generally relaxed.

108. However, the delegation heard some isolated allegations of ill-treatment by orderlies at the Clinic, consisting of rude behaviour and the use of disrespectful language and threats. A few similar allegations of verbal abuse of residents by orderlies were received in the Care Home, as well as reports of pushing and slapping by one particular orderly.

**The CPT recommends that the management of the Psychiatric Clinic of the NEMC and of the Koluvere Care Home regularly remind orderlies that all forms of ill-treatment of patients/residents, including threats and verbal abuse, are unacceptable and will be punished accordingly.**

109. Given the challenging nature of their job, it is essential that orderlies working in psychiatric establishments and care homes be carefully selected and given appropriate training before taking up their duties, and that afterwards they receive ongoing training. While carrying out their duties, such staff should also be closely supervised by qualified health-care staff.

**The CPT trusts that appropriate steps will be taken to ensure that these requirements are met.**

110. At the Clinic, both patients and staff indicated that instances of inter-patient violence occasionally occurred, mostly in relation to the possession of cigarettes. Information was also received about incidents of violence among residents at the Care Home.

The delegation noted that a detailed register was kept in both establishments with a view to documenting such incidents. It encouraged the management of these establishments to analyse closely the statistics gathered in order to identify the risk situations and risk locations as well as vulnerable groups of patients/residents, and to set up a prevention programme.

**The CPT recommends that staff at the Psychiatric Clinic of the NEMC and the Koluvere Care Home employ all means at their disposal to prevent inter-patient/resident violence. In order to tackle this problem, staff should be alert to signs of trouble and both determined and properly trained to intervene when necessary.**

### 3. Living conditions

#### a. Psychiatric Clinic of the NEMC

111. Living conditions were on the whole of a good standard on all the wards. As a rule, patients' rooms (usually with two to five beds) were in a good state of repair, spacious<sup>52</sup>, clean and well-lit. Further, the common areas on the wards were adequately equipped (with sofas, TV sets, computer, sports equipment, board games, etc.) and pleasantly decorated. The state of repair and hygiene of the common sanitary facilities were satisfactory. It is also noteworthy that the Clinic provided patients with some personal hygiene items (toothpaste, toothbrush, shampoo, etc.).

112. However, the delegation observed that there was a lack of privacy for some patients in Wards 3 and 5<sup>53</sup> due to the absence of doors in several of the multi-occupancy rooms. This, according to staff, was done to ensure better visual supervision of certain patients. However, a number of patients complained that it could be very distracting and even disturbing for them to be obliged to overhear conversations, shouting and other interactions between patients. Further, many patients' rooms were austere in terms of decoration and equipment, and patients did not have direct access to lockable space to store their belongings<sup>54</sup>.

#### **The CPT invites the Estonian authorities to remedy the above-mentioned deficiencies.**

As regards in particular the patients' rooms without doors, the Committee considers that other solutions could be found to ensure adequate supervision of those patients (as a rule very few) who need closer observation, without impinging on the privacy of patients in general.

113. The CPT was concerned to learn that many patients in the acute and chronic wards were wearing pyjamas all day. In their letter of 28 September 2012, the Estonian authorities affirmed that the patients had the right to choose whether or not to wear their own clothes. However, a number of patients complained to the delegation that they had been obliged to give up their clothes and wear pyjamas.

The CPT has already stressed in the past that the practice of continuously dressing patients in pyjamas is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process.

**The Committee recommends that steps be taken to ensure that patients are entitled and, if necessary, encouraged to wear their own clothes during the day or are provided with appropriate non-uniform garments.**

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<sup>52</sup> For example, double and triple rooms measured 14 and 17 m<sup>2</sup> respectively.

<sup>53</sup> Respectively for chronic and acute psychiatric disorders.

<sup>54</sup> Patients used for this purpose cupboards in the corridor, to which only the staff had a key.

114. As a rule, most patients had daily access to spacious and pleasant outdoor walking areas. However, a number of patients indicated to the delegation that they were not permitted to go outside on a daily basis, especially during poor weather.

**The CPT recommends that the necessary measures be taken at the Clinic to ensure that all patients, health permitting, are offered access to the open air on a daily basis. Appropriate clothing and footwear should be made available to patients in order to enable them to go outside in all seasons.**

b. Koluvere Care Home

115. Living conditions in Koluvere Care Home were generally satisfactory. Residents' rooms enjoyed good access to natural light, artificial lighting and ventilation, and were clean and pleasantly decorated. The rooms were equipped with individual beds with full bedding, wardrobes, lockers, a table and chairs. Further, residents were allowed to keep a broad range of personal items (musical instruments, computers, TV sets, CD players, etc.) and to personalise their living environment. Basic hygiene items and products for cleaning the rooms were provided by the Home on a regular basis.

116. Residents were accommodated one to four to a room, and most of the rooms were sufficiently large for their intended occupancy.<sup>55</sup> However, conditions in some of the rooms in Building II were cramped (e.g. four residents in a room measuring some 13.5 m<sup>2</sup>). In this connection, the Home's management told the delegation that they expected a reduction in the occupancy rate due to the planned transfer of the residents with severe multiple disabilities to the supported homes that were being gradually expanded. Further, residents placed by court order would be moved to other social care homes. **The CPT would like to be informed of progress made in the implementation of these plans.**

117. With the exception of the residents accommodated in Building III, all residents whose state of health so permitted were free to move around the establishment and had ready access to the open air during the day; during summer months, they could also go on cycling tours and long walks. Further, it is commendable that residents with physical disabilities enjoyed regular access to the open air.

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118. In both establishments, the arrangements with respect to food appeared to be satisfactory and the delegation heard hardly any complaints concerning the quality and quantity of the meals.

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<sup>55</sup> For example, single and double rooms measured some 10 m<sup>2</sup>, and triple rooms 13 to 14 m<sup>2</sup>.

#### 4. Treatment

##### a. Psychiatric Clinic of the NEMC

119. Pharmacotherapy was the foundation of the treatment of virtually all patients in the Clinic. The CPT acknowledges the efforts made by the establishment's management to also provide rehabilitative psycho-social activities and to develop individualised treatment plans for patients. Although the duration of stay in the Clinic was relatively short for the vast majority of patients, some of the wards offered sessions of individual and group therapy, cognitive and family therapy, and psycho-education. Most patients could also take part in art groups and recreational activities.

However, there was a need to further develop the drawing up of individual treatment plans and to develop the work of multidisciplinary teams. The treatment plans should indicate the treatment goals, the therapeutic measures chosen, the staff responsible and an estimation of the time needed to accomplish the goals. It is also essential that treatment plans are discussed with the patients concerned. **The CPT recommends that steps be taken at the Clinic to meet these requirements.**

120. The CPT was pleased to note that patients could use their native tongue, either Estonian or Russian, when they wanted to address ward-based staff, were interviewed by doctors, and in psychotherapy. The use of one's own language is of great importance in psychiatry.

121. Electroconvulsive therapy (ECT) was administered to patients in its modified form (i.e. with both anaesthetics and muscle relaxants) and for the proper indications, in a specifically designated and well-equipped room. All applications of ECT were recorded in a central register as well as in the patients' files (as regards consent to ECT, see paragraph 144).

However, the treatment was applied without performing electroencephalography (EEG). Instead, the duration of the seizure during an ECT session was measured by observing the motor seizure of the patient's leg while watching the time on the clock. In the CPT's opinion, this cannot be considered as a reliable method. Firstly, the aim of giving a muscle relaxant is exactly to suppress the motor seizure. Secondly, the electric impulse given can sometimes produce a seizure in the brain without a motor seizure in the limbs. Without EEG surveillance it can therefore occasionally be impossible to determine whether any seizure activity has been induced in the brain at all and what its duration has been. As a consequence, it cannot be ensured, on the one hand, that an adequate seizure is induced and, on the other hand, that a potentially dangerous prolonged seizure activity will be detected.

**The CPT therefore recommends that steps be taken at the Clinic to ensure that the application of ECT is always performed with EEG monitoring.**

122. Particular attention should be paid to the somatic health of patients being admitted to a psychiatric hospital. It is important that newly-admitted patients are medically screened on the day of their arrival by a doctor or a qualified nurse reporting to a doctor. This initial screening will inter alia ensure that any injuries which the patient may display when entering the hospital are recorded in good time. Further, there should, as soon as possible, be a thorough examination of the somatic health condition of new arrivals by a doctor.

At the Clinic, the delegation observed in some cases injuries (e.g. haematomas/excoriations on fingers, wrists, forearms, legs, etc.) which the patients concerned alleged had resulted from ill-treatment (“beating”) by the police during their escort to the Clinic or from the restraint applied on arrival at the establishment. However, there were no descriptions of the injuries in the patients’ files. In another case, the delegation saw an entry made by a nurse indicating that a newly-admitted patient had a haematoma which the latter alleged had been caused by police ill-treatment during her escort, but there appeared not to have been any follow up.

**The CPT recommends that existing procedures be reviewed in all psychiatric hospitals in Estonia in order to ensure that:**

- **all newly-admitted patients are screened on arrival for injuries and urgent somatic needs by a doctor or a qualified nurse and that the medical findings are properly recorded;**
- **whenever injuries are recorded which are consistent with allegations of ill-treatment made by the patient (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the patient.**

b. Koluvere Care Home

123. At Koluvere Care Home, the delegation gained a generally favourable impression of the care provided to residents. Efforts were being made to involve as many residents as possible in occupational and rehabilitative activities. Residents had access to workshops for handicrafts, sewing and knitting, two day centres (equipped with TV sets, computers connected to the Internet, etc.), and a large gym with various equipment. There were also groups for persons in wheelchairs who were able to take physical exercise. Further, some 40 of the Home’s residents were employed by external companies (packing, producing stickers).<sup>56</sup> In addition, some 20 residents worked as assistant cooks, cleaners or in the garden on a voluntary basis.

124. Rehabilitation plans had recently been established for some of the residents of the Home, based on thorough assessments by a multidisciplinary team<sup>57</sup>, and indicated the goals, methods, timeframe, staff responsible and results achieved. They were operationalised into activity programmes which were accessible to both staff and residents and were used as continuous guidance for the implementation of the rehabilitation plan. Further, staff appeared to be well aware of the rehabilitation goals and means and of their own part in the process.

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<sup>56</sup> The work was being performed within the premises of the Home (with the exception of one resident who worked outside the establishment for a construction company).

<sup>57</sup> Which consisted of a psychiatrist, a psychiatric nurse, occupational/recreational therapists and a social worker.

However, it appeared that a considerable number of the residents, particularly those staying at the establishment on a court order, did not have such a plan. In this regard, the delegation was told that a rehabilitation plan could not be set up without a formal application by the guardian (or the resident concerned, if legally competent) and that both private persons and local government agencies often failed to fulfil this function as guardians in a timely manner. **The CPT would like to receive the observations of the Estonian authorities on this matter.**

## 5. Staff

### a. Psychiatric Clinic of the NEMC

125. Health-care staffing levels at the Clinic were generally adequate. At the time of the visit, it employed 18 full-time psychiatrists, an internal medicine specialist and an anaesthesiologist. Two to four nurses were present on each ward during day shifts and one at night, and they were assisted by two orderlies. Staff qualified to provide therapeutic activities included 12 clinical psychologists, 10 occupational/recreational therapists and a speech therapist.

That said, the number of nurses and orderlies was not sufficient in Ward 3 for the number of patients held there (42 chronic patients). The ward was located on two floors and each floor was staffed with only one nurse assisted by two or three orderlies, both day and night. **The CPT recommends that the number of nursing staff be increased in Ward 3 of the Clinic.**

126. Security staff from a private company were contracted to ensure the general security of the Clinic's premises. It also became clear that, in the case of particularly violent and/or agitated patients, security officers could be called upon to help restrain the patient concerned (e.g. by holding the patient's legs or hands). **The CPT wishes to stress that in such cases, the security staff must act strictly upon the instructions of health-care staff.**

### b. Koluvere Care Home

127. The staff complement of Koluvere Care Home comprised six nurses and 56 "activity instructors" (*tegevusjuhendaja*).<sup>58</sup> Further, a psychiatrist visited the establishment once a fortnight for half a day. Primary health-care services were provided by two general practitioners who attended the establishment once a week for half a day. The delegation was informed that dental treatment was available to residents in a nearby village.

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<sup>58</sup> Five nurses and 35 activity instructors worked in Buildings I and II, one nurse and 14 activity instructors in the unit for residents under reinforced supervision, and 7 activity instructors in the unit for persons with severe multiple disabilities.

128. In the CPT's view, neither the current nursing staff resources nor the time of presence of general practitioners is sufficient to meet the needs of an establishment which is expected to cater for some 180 persons with mental and/or physical health problems. It is also a matter of concern that no nurse was present in the Home at night or at weekends. Further, given the high number of residents receiving psychotropic medication, the attendance hours of the visiting psychiatrist should be increased.

**The CPT recommends that staff resources at Koluvere Care Home be reinforced, in the light of the above remarks.**

## **6. Means of restraint**

129. At the outset, reference should be made to amendments to the Mental Health Act (MHA) which entered into force in September 2012 and which inter alia have resulted in the use of means of restraint being regulated in a more detailed manner. The Act as amended provides for four types of restraint measures: physical (manual), mechanical, chemical, and seclusion. It requires that every resort to such measures be documented in a special register as well as in the patient's medical file. In the case of mechanical restraint, the patient must be under continuous supervision by a member of the health-care staff, and there should be a debriefing with the patient after the end of the use of any means of restraint. Further, the patient's comments should be added to his/her medical file.

The CPT welcomes these amendments, which are to a large extent consistent with the Committee's own standards in this area, **provided that the term "continuous supervision" is understood to mean "continuous presence"**.

### **a. Psychiatric Clinic of the NEMC**

130. The restraint measures used at the Clinic were manual, mechanical and chemical restraint, sometimes applied in combination.<sup>59</sup> The room for mechanical restraint, which was located in Ward 5, was equipped with four restraint beds for five-point fixation (wrists, ankles, abdomen), equipped with belts with magnetic locks. The beds could be separated by a screen.

131. The delegation studied the register of fixation and protocol files of several patients who had been restrained, interviewed both patients and staff involved in restraint measures and inspected the room and equipment used for fixation.

The examination of the register showed that the *duration of fixation* was usually at least three hours. It was not unusual for the duration to exceed 24 hours, and on rare occasions it exceeded 40 hours; in the CPT's view, there can be no justification for applying mechanical restraint for such periods of time. The patient should be released immediately when the emergency situation resulting in the application of restraint ceases to exist.

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<sup>59</sup> The establishment did not possess a seclusion room.



Further, it appeared that the *frequency of resort to fixation* in the Clinic could be lowered considerably<sup>60</sup> by adopting a comprehensive policy of preventing and handling risk situations, and this without an increase in the resort to chemical restraint. De-escalation techniques as well as general and individual alternative measures to prevent agitation and to calm down patients should be developed.

**The CPT recommends that steps be taken at the Clinic and, as appropriate, in other psychiatric establishments in Estonia, to review both the duration of fixation and the frequency of resort to that measure, in the light of the above remarks.**

132. It is essential for a qualified health-care staff member to be *continuously present* in the room in which fixation is applied. Contact is to be maintained in an appropriate way aiming at de-escalating the situation and discontinuing the measure. The assistance to be provided by the continuously present staff member should, if necessary, include escorting the patient to the toilet. In the protocols studied at the Clinic, the delegation found not a single entry in this regard. Interviews with staff and patients showed that, even if restrained patients had asked to be taken to the toilet or to use a bedpan, they might have to urinate into the bed and to lie in a wet bed for hours. Such a state of affairs is not acceptable.

Moreover, and as now required by law in Estonia, a *debriefing* with the patient should take place at the end of the application of any means of restraint. However, the delegation did not receive the impression that such debriefing took place systematically at the Clinic after every measure of fixation. This debriefing will provide an opportunity for the doctor to explain the need for the measure and thus help relieve uncertainty about its rationale. For the patient, such debriefing provides an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

**The CPT recommends that steps be taken at the Clinic and, as appropriate, in other psychiatric establishments in Estonia, to ensure that patients subject to fixation receive all necessary assistance (including to be escorted to the toilet) from the health-care staff member who is present and that all patients in respect of whom any measure of restraint is applied benefit from a debriefing at the end of the measure (as required by law).**

133. Recourse to *chemical restraint* (i.e. forced injection of medication aiming at rapidly calming down an agitated patient) should be subjected to the same safeguards as other forms of restraint, including the obligation to record its use in a specific register. This was not the case at the Clinic at the time of the visit; **the CPT trusts that steps have been taken to remedy this shortcoming following the adoption of the above-mentioned amendments to the MHA.**

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<sup>60</sup> According to the register, there had been 422 cases of fixation in 2011 and 190 cases in the first five months of 2012.

b. Koluvere Care Home

134. The delegation noted that the only means of restraint applied by staff of the Koluvere Care Home was placing an agitated resident in a seclusion room.<sup>61</sup> The measure had to be authorised by the director of the Home and could only be applied in respect of residents placed on a court order. The establishment had a written policy on the use of seclusion as well as a specific register for recording such instances. It appeared from the register that placement in seclusion was resorted to rather infrequently.<sup>62</sup>

The CPT wishes to stress that a resident subject to the measure of seclusion must be continuously supervised by a qualified health-care staff member. The staff member may be outside the resident's room, provided that the resident can see the staff member and the latter can continuously observe and hear the resident.

**The CPT recommends that the necessary steps be taken to ensure that the above-mentioned requirements are met. This will involve adapting the material conditions in the room used at the time of the visit for seclusion<sup>63</sup> or finding another room for the application of this measure.**

135. In the cases described above, it was usual practice for chemical restraint to be administered by the ambulance staff on their arrival at the Home. However, the application of this measure was not recorded in detail by the Home.<sup>64</sup>

**The CPT would like to be informed of the health-care qualifications of the staff who apply the measure of chemical restraint in such circumstances.**

**Further, steps should be taken by the management of Koluvere Care Home to ensure that any use of chemical restraint by external emergency services is fully recorded and that the residents concerned are subsequently closely monitored by qualified health-care staff.**

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<sup>61</sup> In such cases, staff would simultaneously call an ambulance.

<sup>62</sup> The register made reference to seven instances when the seclusion room had been used since January 2009.

<sup>63</sup> A secure room with a bed and a door fitted with a spy-hole.

<sup>64</sup> The only description of what was administered by the ambulance staff to a resident was found in the register of incidents: "The ambulance gave [the resident] an injection to calm him down".

## 7. Safeguards

### a. involuntary placement procedures

136. A number of amendments had been made to the MHA since the CPT's 2007 visit to Estonia, including to provisions governing involuntary placement in a psychiatric institution. Most notably, according to the revised law, persons under guardianship cannot now be admitted to a psychiatric hospital solely with the consent of their guardian.<sup>65</sup> The CPT welcomes this development.

137. That being said, the legal procedures relating to civil commitment to a psychiatric hospital, which were described in the report on the CPT's 2007 visit<sup>66</sup>, have not fundamentally changed. Pursuant to the relevant provisions of the MHA and the Code of Civil Procedure (Sections 533 to 543), a person can be admitted involuntarily to a psychiatric hospital under the *emergency placement procedure* if he/she is severely mentally ill and endangers the life or health of himself/herself or others.<sup>67</sup> A decision to administer involuntary treatment in the absence of a court's decision shall be made by a psychiatrist on the admission of the person to the hospital promptly after his/her medical examination and for a maximum of 48 hours.<sup>68</sup> Before the expiry of this period, the competent court, based on a psychiatric expert opinion, may issue a provisional placement order under Section 534 of the Code of Civil Procedure for a period of up to three months (which may be extended to a maximum of six months).

In *non-emergency situations* (i.e. when a person is hospitalised against his/her will after a court decision has been taken), placement is ordered by a court for a maximum term of one year on the basis of a request by the competent rural municipality or town government. The judge must hear the person concerned and obtain an expert opinion from a psychiatrist. Further, the court has to appoint a representative for the person concerned, if the latter is not already being represented.<sup>69</sup>

138. During the visit, the CPT's delegation examined in detail involuntary placement procedures in the Psychiatric Clinic of the NEMC. For this purpose, the delegation interviewed staff and patients and consulted a number of patients' files. It also met with the competent judge who dealt with cases of involuntary admission to the Clinic.

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<sup>65</sup> Section 3(2): "Psychiatric care is provided to a person with restricted active legal capacity with the consent of his/her legal representative and on the basis of the person's own expression of will, insofar as the person is capable of expressing his/her will. A legal representative may not express his/her will in place of the person being represented for the provision of psychiatric care."

<sup>66</sup> See CPT/Inf (2011) 15, paragraphs 125 and 126.

<sup>67</sup> Section 11 of the MHA.

<sup>68</sup> The hospital management shall ensure that a doctor, other than the doctor who made the initial decision on admission, carries out a medical examination of the person concerned within 24 hours of admission.

<sup>69</sup> See Chapter 54 of the Code of Civil Procedure.

The information gathered by the delegation indicated that the above-mentioned legal requirements were generally respected in practice. As a rule, the court initially issued a provisional placement order for fourteen days, after having seen the person concerned in the presence of a court-appointed lawyer. In cases when the court was not in a position to see the patient within the first 48 hours of admission and any “delay was likely to result in danger”<sup>70</sup>, provisional placement for four days could be ordered (usually followed by a fourteen-day placement). Within the period of fourteen days, the hospital had to apply to the rural municipality or town government in order for the latter to submit a formal application to the court for the extension of the patient’s involuntary treatment for up to three months. The court’s decision, which also contained information on the modalities to lodge an appeal, was usually delivered to the patient.

139. The delegation noted that in cases when the court received a request from the rural municipality or town government to extend the provisional placement of a patient beyond fourteen days, the court always sought an *opinion from a forensic expert* who was not attached to the Clinic.<sup>71</sup> The expert visited the Clinic in order to see the patient concerned and to examine the relevant medical documentation. This is a positive development; as the CPT has stressed in the past, the procedure by which involuntary placement in a psychiatric establishment is decided should offer guarantees of independence and impartiality as well as of objective psychiatric expertise. **The Committee trusts that the aforementioned practice of seeking the opinion of an outside psychiatrist in the context of civil involuntary hospitalisation is applied throughout Estonia.**

140. The legal basis for involuntary admissions to social welfare institutions is provided in Section 19 of the Social Welfare Act<sup>72</sup>. In addition, Chapter 54 of the Code of Civil Procedure provides for certain safeguards in this respect. Such placement is ordered by a court for up to one year and may be extended for periods not exceeding one year at a time. The court may, together with the decision on the placement, appoint a guardian.

141. The great majority of residents at Koluvere Care Home were formally considered as voluntary since service agreements had been concluded between them (or their guardian) and the Home. As regards the residents who had been admitted on an involuntary basis (i.e. 27 residents committed to the Home by court order for “24-hour care with reinforced supervision”), it appeared that placement procedures were on the whole carried out in accordance with the relevant legal provisions. In particular, before taking a decision on placement the judge usually heard the person concerned, in the presence of an *ex officio* lawyer.

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<sup>70</sup> Section 534 (3) of the Code of Civil Procedure. It is further stated that the person concerned must be heard by the court “promptly thereafter”.

<sup>71</sup> The delegation was told that this was a requirement of Section 537(1) of the Code of Civil Procedure (“The court may place a person in a closed institution only based on an opinion prepared by an expert who has personally examined or questioned the person”). However, this provision does not expressly stipulate that the requisite medical opinion is to be prepared by an outside expert.

<sup>72</sup> “(1) A person is placed in a social welfare institution to receive 24-hour special care service without his or her consent or the consent of his or her legal representative upon the existence of all the following circumstances:

- a) the person has a severe mental disorder which restricts his/her ability to understand or control his/her behaviour;
- b) if not placed in a social welfare institution to receive 24-hour special care service, the person may represent a danger to himself/herself or others;
- c) the application of earlier measures has not been sufficient or the use of other measures is not possible.

However, the delegation was concerned to learn that court proceedings for annual reviews of placement were carried out under the written procedure, without the participation of the resident concerned. **Steps should be taken to ensure that in the context of court proceedings to renew the involuntary placement of a person in a social care home, the person concerned is always heard by the judge.**

142. The CPT has repeatedly expressed its misgivings about the situation of residents deprived of their legal capacity who had been placed in a social care home solely with the consent of their guardian. In the Committee's view, placing incapacitated persons in a social welfare institution, without the benefit of the procedural safeguards otherwise provided for by law, is a highly questionable practice. In this connection, reference should be made to the relevant amendment made to the MHA (see paragraph 136); **it would be desirable for the same legal guarantee to apply also in the context of placement in social care homes.**

b. consent to treatment

143. The delegation noted that there existed no procedures at the Clinic to seek the consent to treatment of an involuntary patient, except for ECT treatment.<sup>73</sup> In the CPT's view, the admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising any treatment without his/her consent. Every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and given the opportunity to refuse treatment or any other medical intervention. If it is considered necessary from a medical standpoint for a patient to receive treatment despite the absence of his/her informed consent, there should be clear criteria for this and procedures by which this can be authorised (which should allow for a second, independent, medical opinion in addition to that of the doctor(s) proposing the treatment). **The CPT recommends that the Estonian authorities take steps to reflect, in both law and practice, the principle of a patient's free and informed consent to treatment and the above-mentioned requirements as regards treatment without consent.**

144. As regards the procedure for obtaining consent to ECT treatment, patients (including involuntary patients) were requested to sign a special consent form regarding the administration of ECT. Further, brochures containing detailed information on the procedure for ECT and related risks were available to patients (in both Estonian and Russian). The delegation was informed that in cases of severe agitation, ECT could be applied without the patient's consent. In such a case, two of the Clinic's psychiatrists had to confirm in writing the indication for this form of treatment. **The CPT would like to be informed of the precise legal basis for this practice.**

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<sup>73</sup> In the case of voluntary admissions, patients signed a consent form certifying that they had been informed of the nature of their illness, their treatment needs, the planned examinations and interventions, and possible side-effects.

c. safeguards during placement

145. An introductory leaflet/brochure setting out the establishment's routine and patients'/residents' rights should be issued to each patient/resident on admission, as well as to their families. Any patients/residents unable to understand this brochure should receive appropriate assistance.

At the Psychiatric Clinic of the NEMC and Koluvere Care Home, newly-admitted patients/residents received verbal information on the internal rules of the establishment. Further, the rules as well as information on rights were also displayed on notice boards in patients'/residents' accommodation areas. However, no information in writing was provided on admission.

**The CPT recommends that an introductory leaflet/brochure be drawn up and issued to each newly admitted patient/resident (as well as to his/her legal representative and close relatives), accompanied by appropriate verbal explanations, at the Psychiatric Clinic of the NEMC and Koluvere Care Home (and, as appropriate, in other psychiatric/social welfare establishments in Estonia).**

146. At both the Clinic and the Home, patients/residents could, in principle, address their complaints to the chief doctor/director, the Health Board, and the Chancellor of Justice. However, many patients/residents appeared to be unaware of the existing possibilities to lodge a complaint. **The CPT recommends that patients/residents be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so.**

147. The CPT attaches great importance to psychiatric/social welfare establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients'/residents' care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations.

The delegation was informed that the Health Board under the Ministry of Social Affairs visited psychiatric hospitals and social care homes on a regular basis (usually twice a year). The Board examined the manner in which the relevant legislation and the Board's own standards concerning material conditions, the quality of care and the keeping of medical documentation were respected.

Further, both the Clinic and the Home had been recently visited by the Chancellor of Justice within his mandate as the National Preventive Mechanism. It also appeared that both establishments were regularly visited by the Estonian Patient Advocacy Association.

148. In both establishments, patients'/residents' contact with the outside world included practically unrestricted visits from their relatives. Further, all residents of the Care Home (including those placed on a court order) and many patients of the Clinic were allowed to keep their personal mobile phones. And in case of need, patients/residents could use one of the establishments' telephones.

#### **D. Establishments under the authority of the Ministry of Defence**

149. The delegation visited for the first time the cells in the barracks of the Guard Battalion in Tallinn, where soldiers could be detained for disciplinary purposes. At the time of the visit, the cells were unoccupied due to construction work inside and outside the barracks.<sup>74</sup> However, the delegation visited the cells, reviewed different records and spoke with the duty officer.

150. The delegation was informed of two procedures for placing a soldier in these disciplinary cells. One procedure allowed a duty officer to order the placement of a person in detention for up to 48 hours. It was mainly used for sobering-up purposes or as a sanction for absence without official leave.

For more serious disciplinary infringements, an investigation was carried out by the military authorities and the accused person could make his own submissions. Based on the conclusions of the investigation, the Commander of the Battalion could issue a decree ordering detention for up to seven days. The legality of the decree had to be reviewed by an administrative court before it could be implemented. The delegation was informed that during this procedure the soldier could benefit from the assistance of a lawyer.

151. The six disciplinary cells were all located in the basement of an administrative building. Five of them measured 7 m<sup>2</sup> and were equipped to accommodate up to two persons; one larger cell (14 m<sup>2</sup>) had a capacity of four persons. All the cells had very limited access to natural light and one had no access whatsoever; artificial lighting was adequate. Each of the cells was equipped with wooden beds, a table and stools, and detained persons were apparently provided with a mattress and blankets. Water, toilets and shower were accessible outside the cells and the delegation was informed that detained persons had access to a shower every day. According to the duty officer, in addition to legislative texts and the Bible, detained soldiers also had access to magazines and newspapers.

**152. The CPT recommends that immediate steps be taken to improve access to natural light in the disciplinary cells. The cell which currently has no access to natural light whatsoever should not be used again until such access is provided.**

The CPT would also like to recall the minimum standard of living space of 4 m<sup>2</sup> per detained person (see paragraph 34). While acknowledging that the maximum length of detention in these cells is relatively short (seven days), **the Committee considers that it would be preferable for the 7 m<sup>2</sup> cells to be reserved for single occupancy and the 14 m<sup>2</sup> cell to accommodate no more than three persons.**

153. The delegation was informed that detained soldiers were allowed outdoor exercise for one hour per day except when they were serving a 48-hour disciplinary measure. **The CPT recommends that steps be taken to ensure that every person detained for 24 hours or more is offered outdoor exercise every day; if necessary, the relevant regulations should be amended.**

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<sup>74</sup> This work did not relate to conditions in the cells.

The outdoor exercise yard was a part of a plot of land measuring some 20 m<sup>2</sup> and delimited by meshed grill and barbed wire. Given the construction work underway, the delegation was not able to determine whether the yard was equipped with a means of rest and shelter against inclement weather. **The Committee would like to receive clarification of this matter.**



## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **National Preventive Mechanism** comments

- the CPT suggests that consideration be given to setting up a separate Unit or Department within the Chancellor of Justice's Office, to be responsible for the National Preventive Mechanism (NPM) functions (paragraph 9).

#### **Establishments under the authority of the Ministry of the Interior**

##### **Preliminary remarks**

##### recommendations

- the Estonian authorities to put a definitive end as soon as possible to the practice of accommodating remand and sentenced prisoners in police detention houses (paragraph 11);
- the Estonian authorities to take measures to ensure that the return of remand prisoners to police detention houses for investigation purposes is only sought and authorised very exceptionally, for specific reasons and for the shortest possible time; supervising prosecutors should examine carefully any requests for such returns made by police investigators (paragraph 12);
- no remand prisoner to be returned to police detention in Narva, pending the entry into service of the new detention house in the city (paragraph 13).

##### **Ill-treatment**

##### recommendations

- staff at the East Police Station in Tallinn to be reminded that ill-treatment of any form, including threats, will not be tolerated and will be punished accordingly (paragraph 14).

##### comments

- the Committee trusts that the Estonian authorities will continue to regularly remind police officers that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 14);

- the Estonian authorities are requested to remind staff at Tallinn Detention House that the verbal abuse of inmates is unacceptable and will be punished accordingly (paragraph 15).

requests for information

- the outcome of the court proceedings in respect of the two cases referred to in paragraph 16 (paragraph 16);
- in respect of the period from 1 January 2012 to the present time:
  - the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;
  - an account of any criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police(paragraph 16).

**Fundamental safeguards against ill-treatment**

recommendations

- the Estonian authorities to make further efforts to render fully effective in practice the right of persons deprived of their liberty by the police to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty. Further, detained persons should be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 18);
- the relevant legal provisions to be amended so as to ensure that any exceptions to the right of notification of custody are clearly defined and applied for as short a time as possible (paragraph 19);
- the relevant legislation to be amended so as to ensure that whenever a minor is detained as a criminal suspect, the police are obliged to immediately notify the parent, guardian or curator (paragraph 20);
- measures to be taken to ensure that the presence of a lawyer is obligatory during police questioning of juveniles detained on suspicion of having committed a misdemeanour (paragraph 22);
- the Estonian authorities to adopt specific legal provisions on access to a doctor for persons detained by the police, which meet fully the requirements set out in the third subparagraph of paragraph 24 (paragraph 24);

- the Estonian authorities to take immediate steps to ensure that all persons admitted to a police detention house are thoroughly screened by a health-care professional without delay. The record drawn up following that screening should contain: (i) a full account of objective medical findings based on a thorough examination, (ii) a full account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's conclusions in the light of (i) and (ii), indicating, as far as possible, the consistency between any allegations made and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 25);
- the Estonian authorities to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information upon apprehension, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person's rights in a straightforward manner. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case (paragraph 27).

#### comments

- the right of access to a lawyer must also apply during any period of initial police questioning (paragraph 23);
- the Estonian authorities are requested to review the procedures at Rakvere Detention House in respect of initial medical screening and regular monitoring of detained persons, in the light of the case described in paragraph 26 (paragraph 26).

#### requests for information

- the observations of the Estonian authorities on reports received that detained persons in respect of whom an *ex officio* lawyer had been appointed often only met that lawyer for the first time at the court hearing, even in cases where a lawyer was requested shortly after apprehension (paragraph 21).

### **Conditions of detention**

#### recommendations

- the sanitary annexes in multi-occupancy cells at the detention houses at Jõhvi and Rakvere to be fully separated from the rest of the cell by solid partitioning (paragraph 29);

- the Estonian authorities to pursue their efforts to provide appropriate conditions of detention at Tallinn Detention House. This should involve measures to ensure that:
  - the official occupancy levels of cells provide for at least 4 m<sup>2</sup> of living space per person in multi-occupancy cells (not counting the area taken up by in-cell toilets);
  - cells have access to natural light as well as adequate artificial lighting (i.e. sufficient to read by, sleeping periods excluded)  
(paragraph 34);
- steps to be taken at Tallinn Detention House to ensure that the in-cell toilets are fully partitioned (i.e. from floor to ceiling) (paragraph 34);
- the Estonian authorities to take measures to ensure that remand or sentenced prisoners held in police detention houses are offered at least one hour of outdoor exercise every day in facilities of adequate size and possessing the necessary equipment (e.g. a shelter and means of rest). Anyone detained for 24 hours or more should be offered outdoor exercise every day (paragraph 36);
- all cells in the City Centre, East and South Police Stations in Tallinn to be equipped with a means of rest and no cell measuring less than 5 m<sup>2</sup> to be used for overnight accommodation (paragraph 37);
- steps to be taken to ensure that all persons who are held in police custody overnight are provided with a clean mattress (paragraph 38);
- the Estonian authorities to immediately withdraw from service the three waiting cells at Narva Police Department (paragraph 39).

#### comments

- the Committee trusts that Cells K1 and K2 at Narva Detention House will never be used again to accommodate a detained person, even for a short period of time (paragraph 30);
- the CPT trusts that the requirement that in-cell toilets be fully partitioned will be met in the context of the construction of new detention houses (including Narva Detention House) and refurbishment of existing ones (such as Haapsalu Detention House) (paragraph 34).

#### requests for information

- the progress of refurbishment of the existing police detention facilities, including the timeframe for these works (paragraph 28);
- confirmation of the entry into service of the new detention houses in Kuressaare and Narva (paragraph 28);
- a detailed account of the envisaged renovation work at Haapsalu Detention House, including a description of the planned cellular accommodation, outdoor exercise facilities, etc. (paragraph 32).

## **Establishments under the authority of the Ministry of Justice**

### **Preliminary remarks**

#### recommendations

- the minimum standard of living space per prisoner to be raised to 4 m<sup>2</sup> (not counting the area taken up by any in-cell toilet facility) by 1 January 2015, when Section 11<sup>1</sup> of the Imprisonment Act will enter into force (paragraph 44).

#### comments

- the Estonian authorities are encouraged to pursue vigorously their efforts to combat prison overcrowding, by placing particular emphasis on non-custodial measures in the period before the imposition of a sentence, increasing the use of alternatives to imprisonment and adopting measures facilitating the reintegration into society of persons deprived of their liberty. In this context, they should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation Rec (99) 22 concerning prison overcrowding and prison population inflation, Recommendation Rec (2000) 22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole), Recommendation (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules (paragraph 44);
- appropriate action should be taken *vis-à-vis* the law enforcement agencies and prosecutorial and judicial authorities with a view to ensuring their full understanding of – and support for – the policies being pursued, thereby avoiding counterproductive pre-trial custody and sentencing practices (paragraph 44).

### **Ill-treatment**

#### recommendations

- a clear message to be delivered to prison staff at Tallinn and Viru Prisons that all forms of ill-treatment of inmates, including verbal abuse and the excessive use of force when dealing with incidents, are not acceptable and will be punished accordingly (paragraph 45);
- the Estonian authorities to take immediate steps throughout the prison system to ensure that officers of security departments no longer carry out investigations into alleged instances of ill-treatment by prison staff (paragraph 47);
- whenever a formal investigation is launched into allegations of ill-treatment of inmates by prison staff (or on the basis of other information indicative of possible ill-treatment), the staff members concerned should be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation (paragraph 47).

#### comments

- the CPT trusts that the Estonian authorities will vigorously pursue their efforts to combat the phenomenon of inter-prisoner violence at Tallinn and Viru Prisons, with particular attention being paid to Blocks S1 and S2 at Tallinn Prison and to the juveniles and young offenders unit at Viru Prison (paragraph 49).

requests for information

- further information on specific proposals put forward with a view to preventing a recurrence of instances of abuse of authority by prison officers at Viru Prison (paragraph 45);
- for the last 18 months:
  - the number of complaints of ill-treatment made against prison staff and the number of criminal/disciplinary proceedings which have been instituted as a result;
  - an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by prison staff (paragraph 46);
- observations on the role which can be played by the contact officer assigned to each individual inmate in tackling the problem of inter-prisoner violence (paragraph 49).

**Tallinn Prison**

recommendations

- the minimum standard of living space per prisoner to be raised to 4 m<sup>2</sup> (not counting the area taken up by any in-cell toilet facility) at Tallinn Prison by 1 January 2015, if the establishment is still in service at that time (paragraph 53);
- the Estonian authorities to ensure that the detention areas, related sanitary/washing facilities and outdoor exercise areas are maintained in – and as necessary restored to – a satisfactory state of repair and hygiene (paragraph 53);
- steps to be taken to ensure that all prisoners who need to use a toilet facility are able to do so without delay at all times, including at night (paragraph 54);
- association periods with prisoners from other cells to be introduced for remand prisoners; if necessary, the relevant provisions of the Imprisonment Act should be amended (paragraph 55);
- efforts to be made to enhance the programme of out-of-cell activities for sentenced prisoners and in particular to provide work (preferably of a vocational value) to a larger number of them (paragraph 55);

- the Estonian authorities to take Block K1 out of service without delay (paragraph 57);
- juveniles temporarily placed at Tallinn Prison to be accommodated in facilities which fully respect their physical and mental integrity (paragraph 58);
- the Estonian authorities to take steps to ensure that female prisoners are held in accommodation which is physically separated from that occupied by male prisoners (paragraph 59);
- association periods with prisoners from other cells to be introduced for the female remand prisoners (paragraph 59);
- the Estonian authorities to ensure that female prisoners have access to adequate quantities of essential hygiene products (paragraph 60).

#### comments

- steps should be taken to ensure that remand prisoners at Tallinn Prison are aware of the programmes available (paragraph 52);
- the Estonian authorities are invited to allow prisoners more frequent access to shower facilities, taking into account Rule 19.4 of the European Prison Rules (paragraphs 53 and 60).

### **Viru Prison**

#### recommendations

- the Estonian authorities to take the necessary measures to ensure that all cells at Viru Prison are adequately ventilated at all times of the year (paragraph 62);
- all outdoor exercise yards at Viru Prison to be equipped with a means of rest and shelter (paragraph 63);
- the Estonian authorities to take steps, as a matter of urgency, to radically improve the regime activities for remand prisoners at Viru Prison. The aim should be to ensure that such prisoners are able to spend a reasonable part of the day outside their cell, engaged in purposeful activities of a varied nature (paragraph 64);
- the Estonian authorities to take steps to ensure that collective punishments are not applied in the juvenile ward at Viru Prison (paragraph 72);
- the relevant authorities to carry out a full review of the food provided to juveniles and young offenders at Viru Prison in order to ensure that it is sufficient not only in terms of quality but also in terms of quantity (paragraph 73);
- the Estonian authorities to carry out a full review of the use being made of solitary confinement as a disciplinary sanction at Viru Prison with a view to ensuring that it is only imposed exceptionally as a measure of last resort, is proportionate to the offence committed and is applied for the shortest possible period of time (paragraph 76).

#### comments

- in the context of future construction/renovation of penitentiary establishments, it would be desirable for it to be possible to open a part of cell windows (paragraph 62);
- the Estonian authorities are invited to rethink the design of outdoor exercise facilities; in particular they should be sufficiently large to allow prisoners to exert themselves physically and, as far as possible, be located at ground level (paragraph 63);
- the CPT trusts that efforts will continue to be made to ensure that all sentenced prisoners at Viru Prison have access to an appropriate range of work (preferably with vocational value), educational, sport and recreational activities (paragraph 64);
- the Estonian authorities are encouraged to further develop the programme of activities offered in the “Supermax” unit, taking into account the criteria set out in paragraph 68 (paragraph 68).

#### requests for information

- a description of all the activities currently on offer in the “Supermax” unit, with an indication of the number of prisoners involved in each of them and for how many hours per week (paragraph 68);
- detailed information regarding the different activities, programmes and educational (basic education and further) and vocational training courses offered to juveniles and young offenders, including as to the number of inmates involved in each of them and for how many hours per week (paragraph 71).

### **Health-care services in the two prisons**

#### recommendations

- the Estonian authorities to review the health-care staff resources at Viru Prison, in the light of the remarks made in paragraph 79. Urgent steps should be taken to fill the partly vacant psychiatrist’s and dentist’s posts as well as the second general practitioner’s post, and consideration should be given to recruiting a third full-time general practitioner, bearing in mind that the health-care service is also partly responsible for the adjacent Jõhvi Police Detention House (paragraph 79);
- steps to be taken to ensure that 24-hour shifts are discontinued in practice in the health-care services of Tallinn and Viru Prisons and in all other Estonian prisons (paragraph 80);
- the recommendations made in paragraph 25 concerning a thorough screening by a health-care professional apply equally to the medical screening of newly-arrived prisoners as well as of inmates following a violent episode in prison (paragraph 81);
- the Estonian authorities to take the necessary steps to ensure that acts of self-harm are approached from a therapeutic rather than a punitive standpoint (paragraph 84);
- steps to be taken to ensure that medical examinations of prisoners are conducted out of the



hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff (paragraph 86);

- the Estonian authorities to put an immediate end in all prisons to the practice of forcible urine testing (paragraph 88).

#### comments

- it would be desirable to reinforce the nursing staff resources at Viru Prison (paragraph 79);
- steps should be taken to ensure that psychotropic drugs are always distributed by health-care staff, as provided for by national legislation. Preferably, all medication should be distributed by health-care staff (paragraph 82);
- the prevention of sexually transmissible diseases could be improved, inter alia, by the provision of information to inmates concerning methods of transmission, and the supply of appropriate means of protection analogous to those used in the community at large (paragraph 85);
- the Estonian authorities are encouraged to take the necessary steps to improve the screening of prisoners for hepatitis (paragraph 85);
- the Estonian authorities are invited to draw up a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (paragraph 87).

#### requests for information

- detailed information on the possible transfer of prison health-care services from the Ministry of Justice to the Ministry of Social Affairs (paragraph 77);
- observations on complaints received from prisoners at Tallinn Prison regarding difficulties in making an appointment with a doctor or a specialist such as a dentist or psychiatrist (paragraph 78);
- precise and up-to-date information on the protocol regarding body-cavity searches, as well as on who may apply this protocol (paragraph 83).

## **Food provided to prisoners**

### recommendations

- the nutritional state of prisoners to be assessed at admission by, inter alia, calculating the body mass index (BMI) of adult prisoners and drawing up a growth chart of those juveniles still in the process of growing. Afterwards there should be repeated measurements at reasonable intervals (paragraph 90);
- prisoners with a BMI <18.5, stagnating in growth or displaying an unintentional weight loss >5% in three months to be the subject of a nutritional intervention (receive additional food of good quality) and close follow up until the situation has been remedied (paragraph 90);
- the health-care services in all Estonian prisons to adopt a proactive approach with regard to supervising catering arrangements. Particular attention should be paid to the dietary requirements of certain groups of prisoners who might have specific needs (paragraph 91).

## **Other issues**

### recommendations

- the Estonian authorities to take the necessary steps to ensure that telescopic truncheons, tear gas canisters and handcuffs are not carried openly in detention areas (paragraph 92);
- the length of the monthly “short-term” visits to be increased to four hours. Preferably, prisoners should be able to receive a visit every week (paragraph 94);
- conditions in the visiting facilities at the establishments visited (and, as appropriate, in other penitentiary establishments in Estonia) to be reviewed in order to ensure that, as a rule, short-term visits take place under open conditions for all categories of prisoners (paragraph 94);
- the maximum period of solitary confinement as a punishment to be no more than 14 days for a given offence, and preferably lower. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which it is felt call for more severe sanctions should be dealt with through the criminal justice system (paragraph 95);
- the maximum possible period of placement in a disciplinary cell as a punishment for juveniles to be substantially reduced, preferably to a period not exceeding three days. Further, whenever juveniles are subject to such a sanction, they must be guaranteed appropriate human contact throughout the duration of the measure (paragraph 95);
- all prisoners placed in a disciplinary cell to be allowed access to a broader range of reading material (paragraph 96);
- the role of health-care staff *vis-à-vis* persons held in solitary confinement to be reviewed, in the light of the remarks made in paragraph 97 (paragraph 97);

- the Estonian authorities to review the procedure for placement in disciplinary confinement in order to ensure that the prisoners concerned i) are informed in writing of the charges against them, ii) have the right to legal assistance, iii) are given reasonable time to prepare their defence, and iv) have the right to be heard by the person who takes the decision, to call witnesses on their own behalf and to cross-examine evidence given against them. Further, inmates having difficulties in understanding Estonian should be provided with the necessary assistance (paragraph 98);
- measures to be taken to provide inmates with the necessary information, in a language they understand, on all existing external complaints and monitoring mechanisms (paragraph 102).

#### comments

- the Estonian authorities are invited to take the necessary steps to ensure that all prisoners can have long-term visits regardless of their financial resources (paragraph 94);
- the Estonian authorities are invited to review the current system of complaints taking into account the remarks in paragraph 99; in particular, the reply to a complaint addressed to the Director should be signed by him/her (paragraph 99);
- the Estonian authorities are invited to explore how the full potential of the Prison Committees can be realised and their synergy with the NPM promoted (paragraph 102).

#### requests for information

- observations on the remarks made in paragraph 93 about the classification of prisoners according to their level of Estonian language and information on further measures taken to resolve the problem of communication between staff and prisoners due to the absence of a common language (paragraph 93).

## **Establishments under the authority of the Ministry of Social Affairs**

### **Preliminary remarks**

#### requests for information

- the progress made in the implementation of the Estonian authorities' plans for the deinstitutionalisation of residents of social care homes by promoting community-based care (paragraph 106).

### **Ill-treatment**

#### recommendations

- the management of the Psychiatric Clinic of the North Estonia Medical Centre (NEMC) and of the Koluvere Care Home to regularly remind orderlies that all forms of ill-treatment of patients/residents, including threats and verbal abuse, are unacceptable and will be punished accordingly (paragraph 108);
- staff at the Psychiatric Clinic of the NEMC and the Koluvere Care Home to employ all means at their disposal to prevent inter-patient/resident violence. In order to tackle this problem, staff should be alert to signs of trouble and both determined and properly trained to intervene when necessary (paragraph 110).

#### comments

- the CPT trusts that appropriate steps will be taken to meet the requirements set out in paragraph 109 concerning orderlies working in psychiatric establishments and care homes (paragraph 109).

### **Living conditions**

#### recommendations

- steps to be taken at the Psychiatric Clinic of the NEMC to ensure that patients are entitled and, if necessary, encouraged to wear their own clothes during the day or are provided with appropriate non-uniform garments (paragraph 113);
- the necessary measures to be taken at the Clinic to ensure that all patients, health permitting, are offered access to the open air on a daily basis. Appropriate clothing and footwear should be made available to patients in order to enable them to go outside in all seasons (paragraph 114).

comments

- the Estonian authorities are invited to remedy the deficiencies as regards living conditions at the Clinic described in paragraph 112 (paragraph 112).

requests for information

- progress made in the implementation of the plans to transfer some residents at the Koluvere Care Home to other facilities (paragraph 116).

**Treatment**

recommendations

- steps to be taken at the Psychiatric Clinic of the NEMC to further develop the drawing up of individual treatment plans and to develop the work of multidisciplinary teams (paragraph 119);
- steps to be taken at the Clinic to ensure that the application of ECT is always performed with EEG monitoring (paragraph 121);
- existing procedures to be reviewed in all psychiatric hospitals in Estonia in order to ensure that:
  - all newly-admitted patients are screened on arrival for injuries and urgent somatic needs by a doctor or a qualified nurse and that the medical findings are properly recorded;
  - whenever injuries are recorded which are consistent with allegations of ill-treatment made by the patient (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the patient (paragraph 122).

requests for information

- the observations of the Estonian authorities on the apparent lack of rehabilitation plans for a considerable number of residents at the Koluvere Care Home (paragraph 124).

**Staff**

recommendations

- the number of nursing staff to be increased in Ward 3 of the Psychiatric Clinic of the NEMC (paragraph 125);
- staff resources at the Koluvere Care Home to be reinforced, in the light of the remarks in paragraph 128 (paragraph 128).

comments

- in those cases where the Clinic's security staff are called upon to help restrain patients, they must act strictly upon the instructions of health-care staff (paragraph 126).

**Means of restraint**

recommendations

- steps to be taken at the Psychiatric Clinic of the NEMC and, as appropriate, in other psychiatric establishments in Estonia, to review both the duration of fixation and the frequency of resort to that measure, in the light of the remarks in paragraph 131 (paragraph 131);
- steps to be taken at the Clinic and, as appropriate, in other psychiatric establishments in Estonia, to ensure that patients subject to fixation receive all necessary assistance (including to be escorted to the toilet) from the health-care staff member who is present and that all patients in respect of whom any measure of restraint is applied benefit from a debriefing at the end of the measure (as required by law) (paragraph 132);
- the necessary steps to be taken at the Koluvere Care Home to ensure that a resident subject to the measure of seclusion is continuously supervised by a qualified health-care staff member. The staff member may be outside the resident's room, provided that the resident can see the staff member and the latter can continuously observe and hear the resident. This will involve adapting the material conditions in the room used at the time of the visit for seclusion or finding another room for the application of this measure (paragraph 134);
- steps to be taken by the management of the Care Home to ensure that any use of chemical restraint by external emergency services is fully recorded and that the residents concerned are subsequently closely monitored by qualified health-care staff (paragraph 135).

comments

- the term "continuous supervision" used in the Mental Health Act as amended should be understood to mean "continuous presence" (paragraph 129);
- the CPT trusts that, following the adoption of the September 2012 amendments to the Mental Health Act, steps have been taken at the Clinic to ensure that the use of chemical restraint is recorded in a specific register (paragraph 133).

requests for information

- the health-care qualifications of the ambulance staff who apply the measure of chemical restraint when called to the Care Home (paragraph 135).

## **Safeguards**

### recommendations

- steps to be taken to ensure that in the context of court proceedings to renew the involuntary placement of a person in a social care home, the person concerned is always heard by the judge (paragraph 141);
- the Estonian authorities to take steps to reflect, in both law and practice, the principle of a patient's free and informed consent to treatment and the requirements as regards treatment without consent set out in paragraph 143 (paragraph 143);
- an introductory leaflet/brochure to be drawn up and issued to each newly admitted patient/resident (as well as to his/her legal representative and close relatives), accompanied by appropriate verbal explanations, at the Psychiatric Clinic of the NEMC and the Koluvere Care Home (and, as appropriate, in other psychiatric/social welfare establishments in Estonia) (paragraph 145);
- patients/residents to be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (paragraph 146).

### comments

- the Committee trusts that the practice of seeking the opinion of an outside psychiatrist in the context of civil involuntary hospitalisation is applied throughout Estonia (paragraph 139);
- it would be desirable for the legal guarantee that persons under guardianship cannot be admitted to a psychiatric hospital solely with the consent of their guardian to apply also in the context of placement in social care homes (paragraph 142).

### requests for information

- the precise legal basis for the practice of applying ECT without the patient's consent described in paragraph 144 (paragraph 144).

**Establishments under the authority of the Ministry of Defence**  
**(Barracks of the Guard Battalion in Tallinn)**

recommendations

- immediate steps to be taken in the barracks of the Guard Battalion in Tallinn to improve access to natural light in the disciplinary cells. The cell which currently has no access to natural light whatsoever should not be used again until such access is provided (paragraph 152);
- steps to be taken to ensure that every person detained for 24 hours or more is offered outdoor exercise every day; if necessary, the relevant regulations should be amended (paragraph 153).

comments

- it would be preferable for the 7 m<sup>2</sup> cells to be reserved for single occupancy and the 14 m<sup>2</sup> cell to accommodate no more than three persons (paragraph 152).

requests for information

- clarification as to whether the outdoor exercise yard of the barracks of the Guard Battalion in Tallinn is equipped with a means of rest and shelter against inclement weather (paragraph 153).



**APPENDIX II**

**LIST OF NATIONAL AUTHORITIES  
AND NON-GOVERNMENTAL ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

Ministry of Social Affairs

Hanno PEVKUR	Minister
Heli PALUSTE	Head of the Health Care Department

Ministry of Justice

Margus SARAPUU	Secretary General
Priit KAMA	Deputy Secretary General, Department of Prisons
Priit POST	Director, Sentencing Enforcement Division, Department of Prisons

Ministry of the Interior

Tarmo TÜRKSON	Secretary General
Ainvar RAHE	Commissioner, Police and Border Guard Board

Office of the Chancellor of Justice

Indrek TEDER	Chancellor of Justice
Kertti PILVIK	Head of International Relations and Organisational Development
Kärt MULLER	Head of the First Department
Andres ARU	Head of the Department of Children's Rights

**B. Non-governmental organisations**

Estonian Patient Advocacy Association

Legal Information Centre for Human Rights