

EXECUTIVE SUMMARY

The main objective of the visit was to review the measures taken by the Estonian authorities in response to the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment and conditions of detention of persons in police custody and penitentiary establishments, especially as regards persons placed in solitary confinement. The delegation also examined the treatment, conditions and legal safeguards offered to “civil” involuntary and forensic psychiatric patients. Further, the delegation examined the treatment of foreign nationals detained pursuant to aliens legislation and of military servicemen placed in disciplinary detention.

Police and Border Guard establishments

The CPT is pleased to report that, as had been the case during the previous visits, its delegation received no recent credible allegations of physical ill-treatment by Police and Border Guard officers from persons who were or had been held in the custody of the aforementioned law enforcement agency. That said, a few detained persons complained about officers having used derogatory language referring to the persons' nationality or ethnic origin.

The vast majority of detained persons interviewed by the delegation confirmed that they had been in a position to exercise their right of notification of custody shortly after apprehension. Further, as had been the case during the previous visits, criminal suspects interviewed by the delegation generally confirmed that they had been allowed to contact their own or an *ex officio* lawyer, and that a lawyer had been present during questioning.

The Committee has recommended ever since its very first visit to Estonia (in 1997) that steps be taken to ensure that persons in the custody of law enforcement agencies be formally entitled and granted in practice the express right of access to a doctor as from the very outset of their deprivation of liberty (as distinct from the duty of the Police and Border Guard to ensure that detained persons receive medical assistance whenever needed). Regrettably, these long-standing recommendations have remained unimplemented. On the positive side, most of the detained persons interviewed by the delegation confirmed that the Police and Border Guard officers had provided them with information on their rights.

The police detention houses visited offered adequate conditions of detention. However, Kuressaare Detention House had no exercise yard (detained persons being instead allowed to use, for up to an hour daily, the so-called “walking cell”, that is, a cell without window panes) and the yards at Tallinn Detention House were small cubicles of an oppressive design. Further, given that persons could still be detained in detention houses in excess of 48 hours, the CPT recommended that the Estonian authorities strive to eliminate this practice completely. If it is absolutely necessary and unavoidable to hold a person in a detention house for longer than 48 hours, the person concerned should be offered some means of distraction (such as access to TV or radio, books and press, and the possibility to engage in sports).

Conditions of detention were satisfactory at Viljandi Police Station; they did not call for any particular comment. The same could in principle be said of Võru Police Station; however, although the establishment occasionally held persons for up to 48 hours, it was devoid of a genuine exercise yard. As for Narva Police Station, material conditions were mediocre. The delegation also visited Tallinn Sobering-up Centre, where the material conditions were generally adequate.

As for Estonia's only immigration detention facility, located in a building adjacent to Tallinn Detention House, it had very good material conditions. However, the outdoor facilities of the admission unit consisted of a fenced-off area with no horizontal view, lacking any equipment such as a means of

rest and a shelter against inclement weather. Further, foreign nationals who had been held in the facility for prolonged periods were not offered any organised activities. The Committee stressed that the longer the period for which persons are detained pursuant to aliens legislation, the more developed should be the activities which are offered to them.

Prisons

The delegation visited all three operational prisons in the country, namely Tallinn, Tartu and Viru Prisons.

With the opening of the new Tallinn Prison in December 2018, the process of total renewal of the Estonian prison estate, initiated in 2002 with the entry into service of Tartu Prison, has been completed. Thanks to substantial efforts by the Estonian authorities, all penitentiary establishments inherited from the Soviet era, which had been unsuited to provide adequate conditions of detention, had been replaced with contemporary up-to-standard building complexes. As a result, the Estonian prison estate has accomplished its transition from facilities based on large-capacity dormitories – which had in the past facilitated the development and maintenance of informal prisoner hierarchies – to modern cell-type prison accommodation. The CPT wishes to congratulate the Estonian authorities on this important achievement.

The three prisons were far from approaching their respective maximum capacities in closed regime, with an overall average occupancy rate of 61%, one of the lowest in the European Union. Since the last visit in 2017, the total prison population has continued to steadily decline, in line with a decades-long trend. That said, Estonia still has a high incarceration rate, which is why the CPT recommended that the Estonian authorities continue their efforts to develop non-custodial measures before the imposition of a sentence, alternatives to imprisonment and measures facilitating the reintegration into society of persons deprived of their liberty. Given the low prison occupancy rate, the Committee also invited the authorities to consider repurposing the available space in the establishments to expand the opportunities for association, activities, work and education.

As during the previous visit, the delegation received hardly any allegations of physical ill-treatment by staff in the penitentiary establishments visited. In general, staff-prisoner relations appeared free from visible tensions. However, a few allegations were heard about excessive use of force by prison officers in the context of incidents involving prisoners considered by staff to be challenging and who had been spending very long periods in either disciplinary or security isolation. The delegation also received a few isolated allegations of verbal abuse by prison guards. The CPT recommended that it be reiterated in a firm and unequivocal manner to custodial staff in the three prisons visited that any forms of ill-treatment of prisoners, including verbal abuse, are illegal, unacceptable and will be the subject of sanctions proportional to the severity of the offence.

From the information gathered during the visit, it transpired that inter-prisoner violence, though not a major issue, did exist, especially at Tartu and Viru Prisons. That said, staff appeared to be generally proactive in preventing and, when incidents occurred, appropriately dealing with such cases.

The CPT's delegation found the material conditions to be generally good in the three prisons visited. However, a few shortcomings remained. First, the delegation received many complaints that ventilation in the cells was poor. Second, outdoor exercise facilities for remand prisoners continued to be inadequate, as were those for prisoners on disciplinary or security isolation. Third, a recurrent complaint heard from inmates concerned the allegedly insufficient quantity (and sometimes also the temperature) of the food provided. On the positive side, all prisoners were provided with adequate clothing and a sufficient supply of personal hygiene products.

The CPT acknowledges the continuing efforts made by the Estonian authorities to provide sentenced prisoners with purposeful out-of-cell activities. It is also noteworthy that many of them benefited from an open-door regime for much of the day. By contrast, the vast majority of remand prisoners remained locked up in their cells 23 hours a day for months and, in some cases, even years on end,

their only occupation being watching television, reading and playing board games. The CPT called upon the Estonian authorities to step up their efforts to broaden the range and increase the availability of out-of-cell activities (especially work, preferably with a vocational nature) for all prisoners, including those on remand. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature.

At the time of the 2023 visit, prison healthcare services were still under the responsibility of the Ministry of Justice. However, recently adopted legislation provided for the transfer of the responsibility for prison healthcare services from the Ministry of Justice to the Ministry of Health as of 1 July 2024. In principle, the CPT supports this development, which corresponds to a Europe-wide trend. However, the transfer of responsibility must be accompanied by the allocation of adequate financial means, the development of strategies to fill the numerous vacancies of healthcare staff and the establishing of good communication channels between healthcare and custodial staff.

The healthcare facilities and the supply of medication were, on the whole, very good in the three prisons visited. Newly-arrived prisoners were subjected – within 24 hours of arrival – to medical screening, also including the screening for injuries, suicide risks, substance use and mental health issues. Medical files were properly kept. By contrast, the confidentiality of medical consultations was not always respected and guards continued to distribute prescribed medication (except for psychotropic drugs, administered by nurses). Such practices clearly constitute a breach of medical confidentiality and compromise the perception of the professional independence of prison healthcare staff.

The delegation received numerous complaints from prisoners of all the establishments visited regarding difficulties and delays in obtaining access to mental healthcare. The delegation was also concerned by the fact that, as in 2017, patients accommodated in the Psychiatric Unit of Tartu Prison were *de facto* held in solitary confinement and were offered no therapeutic activities.

Prison staff shortages were conspicuous across all units in the prisons visited, particularly so during night shifts and on weekends. As for staff training, the CPT noted as a positive fact the existence of a comprehensive initial training programme for newly recruited prison staff. However, ongoing training and professional support for existing prison staff was not sufficiently developed.

Regarding the current visiting entitlement, the CPT stressed once again that it is totally insufficient. The Committee reiterated its view that all prisoners (whether sentenced or on remand), irrespective of the regime, should benefit from a visiting entitlement of at least one hour every week. Further, juveniles should benefit from a visiting entitlement of more than one hour every week.

In the course of the visit, the delegation paid particular attention to the situation of prisoners who were subjected to solitary confinement as a disciplinary punishment. Despite the specific recommendations made after the 2007, 2012 and 2017 visits to substantially reduce the maximum possible period of disciplinary solitary confinement, the time-limits set out in the law have remained unchanged. However, at the outset of the visit, senior officials from the Ministry of Justice informed the delegation that amendments to the Imprisonment Act, reducing the maximum duration of disciplinary solitary confinement to 14 days for adult prisoners and to 3 days for juveniles, had been drafted at the Ministry and were to be sent to the Parliament for consideration in the nearest future.

Regarding the proposed reduction of the maximum legally permitted duration of disciplinary solitary confinement for adult prisoners, the Committee welcomed this long overdue legal change. At the same time, the CPT stressed that it is not in agreement with the part of the draft amendments to the Imprisonment Act concerning disciplinary solitary confinement for juvenile prisoners. Juveniles are particularly vulnerable to the detrimental effect that any form of solitary confinement may have on their physical and/or mental well-being, which is why – in the CPT's view – the sanction of disciplinary solitary confinement should never be applied to them.

The CPT also examined the treatment of prisoners subjected to the measure of “segregation in an isolated locked cell” pursuant to Section 69 of the Imprisonment Act, and made a series of recommendations on this subject. In particular, the Committee recommended that the existing procedure be improved so as to make clear that such placement is not a substitute for disciplinary solitary confinement and that there is a regular review of the placement. Further, the CPT recommended that steps be taken to ensure that all prisoners segregated pursuant to Section 69 of the Imprisonment Act have an individual regime plan to assist them to return to a normal regime as soon as possible, and are offered meaningful human contact for at least two hours every day and preferably more, with staff and/or with one or more other prisoners.

At Viru Prison, the delegation visited Estonia’s only reinforced security unit (referred to colloquially by both the management and the staff as the “Supermax”) accommodating prisoners considered to present a particularly high security risk, in most cases related to their involvement in organised crime.

The material conditions in the cells at the “Supermax” had remained generally adequate except for the poor ventilation in some of the cells. As regards the regime, while acknowledging the efforts made by the management of Viru Prison to provide activities to prisoners placed in the “Supermax”, the fact remained that the range of these activities was rather limited. The CPT recommended that further steps be taken to expand it, with a preference for activities that may assist prisoners to return to ordinary living units. The Committee also made recommendations aimed at improving the procedure and increasing the frequency of review of the placement in the “Supermax”.

Psychiatric establishments

The delegation carried out follow-up visits to three psychiatric establishments: the Psychiatry Clinic of North Estonia Medical Centre (in Tallinn), the Forensic Psychiatric Department of Viljandi Hospital and Ahtme Hospital. Further, the delegation carried out a first time visit to the Psychiatric Department of Kuressaare Hospital.

The delegation did not receive any recent and credible allegations of physical ill-treatment of patients by staff in the psychiatric establishments visited, which is to be welcome. Further, the atmosphere in the establishments visited was generally relaxed and many patients spoke positively of the staff. That said, at Viljandi Forensic Department, a few patients alleged that orderlies would sometimes verbally abuse them and threaten them with informal punishments such as prohibition of outdoor exercise, confiscation of cigarettes or having to take a shower in cold water. The Committee recommended that orderlies at Viljandi Forensic Department be reminded that such practices are unacceptable, illegal and will be punished accordingly.

As for inter-patient violence, the information gathered by the delegation suggested that incidents did occur from time to time but that staff generally responded to them in a swift and professional manner. That said, it would appear that not every incident of inter-patient violence was duly recorded at Ahtme Hospital, as was also acknowledged by the staff.

In all the psychiatric establishments visited living conditions were at the very least acceptable, with patients’ rooms being spacious, bright, airy, clean and overall in a good state of repair. Further, patients had unrestricted access to the toilet, washing and shower facilities, and there were no problems with the provision of personal hygiene items and food. That said, apart from some of the wards at Tallinn Psychiatric Hospital and at Kuressaare Psychiatric Department, patients’ rooms were austere and impersonal, with few (if any) personal items in evidence and with no or hardly any lockable space available to patients. This was particularly striking on Wards 3 and 5 at Tallinn Psychiatric Hospital, the acute ward at Viljandi Forensic Department (where there was also a problem with the respect of patients’ privacy due to the presence of large windows in doors to patients’ rooms) and on both acute and sub-acute wards at Ahtme Hospital. The Committee recommended that efforts be made in the aforementioned establishments to provide a more therapeutic material environment (allowing more decoration and personalisation), offer patients access to lockable space (to keep their personal items) and preserve their privacy.

In all the psychiatric hospitals visited patients were able to go outdoors every day, during between one and several hours. Whilst welcoming this, the CPT stressed that, in its view, the standard should be that patients have unrestricted access to suitably equipped outdoor areas, unless their presence inside the ward is required by their involvement in therapeutic procedures and activities.

In the four psychiatric establishments visited, the treatment was essentially based on pharmacotherapy which appeared to be on the whole adequate. However, the offer of other psycho-social therapeutic options (individual and group psychotherapy, occupational therapy, art and music therapy, etc.) was limited, especially on the acute wards in Tallinn, Viljandi and Ahtme. Further, there were no individual treatment plans and no evidence of multi-disciplinary team work.

Health-care staffing levels in the psychiatric establishments visited were generally adequate as regards psychiatrists, nurses and orderlies. Regarding somatic specialists, given that all but one of the psychiatric establishments visited were administratively attached to bigger regional (general) hospitals, there was no problem arranging quick access to somatic doctors working in other departments of those hospitals. By contrast, there were not enough other specialists (clinical psychologists, occupational therapists, art therapists, physiotherapists, social workers, etc.) in the establishments visited. The CPT recommended that steps be taken to reinforce the relevant staff complement in the psychiatric establishments visited.

As far as the delegation could ascertain, seclusion was as a rule not practised in the psychiatric establishments visited. However, at Viljandi Forensic Department, two patients (who were considered to be particularly aggressive and difficult to control) were subjected to the so called "Regime 5" which amounted to long-term segregation. The delegation was concerned to note that there was no legal basis to this restrictive measure and no formal written rules. The Committee recommended that this legal *lacuna* be eliminated as a matter of priority, and provided a number of elements that such precise regulations must contain as a minimum.

As regards mechanical restraint (fixation), the main issue of concern was the lack of direct ongoing supervision by a nurse. Admittedly, nurses (or orderlies) were as a rule present in the adjoining room and observed the patient through a window or via CCTV; however, in the CPT's view, this cannot replace direct supervision by a nurse staying with the patient in the same room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. Other issues of concern noted by the delegation were the use of fixation vis-à-vis adolescent (underage) patients (in Tallinn) and, in all the establishments except Viljandi, the fact that legally voluntary patients were sometimes subjected to fixation without (it would seem) seeking their prior consent and (in case the patient refused) without their legal status being reviewed.

The lack of ongoing direct supervision of mechanically restrained patients was also an issue at Ahtme Hospital, where – moreover – the delegation noted several other problematic aspects, namely the frequent and prolonged (on occasion more than 24 hours) recourse to fixation, and relying on police officers and private security guards to help restrain patients. The Committee reiterated its view that fixation should only be applied when absolutely necessary and for the shortest period possible (minutes rather than hours); further, it should be performed by duly trained health care staff and not by police officers or security guards.

The delegation observed that the relevant legal provisions were duly applied and patients had, on the whole, access to pertinent information, to legal assistance (including *ex officio*) and to avenues of complaint. Whenever hospitalisation (both "civil" involuntary and forensic) was prolonged by court order, court hearings took place which were attended by the patients (or at least patients were invited to attend), their lawyers and (if required) interpreters, and the patients were enabled to speak freely and express their view on their condition and their situation. Patients could receive visitors and make telephone calls, and were enabled to send complaints to outside bodies.

That said, the Committee pointed out two persistent legal *lacunae*: first, establishments were as a rule not informed whether newly-admitted "civil" patients had a legal guardian, which sometimes resulted in legally incapacitated patients being asked to sign the consent form without the

involvement (and, indeed, the knowledge) of their guardian. Secondly, in respect of forensic patients, whilst the six-monthly reviews by the expert psychiatric commissions were duly performed and patients (as well as their lawyers and guardians) were allowed to themselves request the review of the placement measure, the legislation in force continued to fail to provide for an automatic periodic court review of the compulsory treatment measure. The CPT recommended that the aforementioned legal *lacunae* be eliminated as a matter of priority.

Military detention

The delegation saw the holding cell at the Headquarters of Kuperjanov Battalion in Võru (theoretically meant for disciplinary placements of up to 48 hours) and reached the conclusion that the cell in question should never be used for periods of detention exceeding a few hours (and, in addition, should never be used for overnight detention), and this only provided it is equipped with some means of rest (e.g. a mattress or a bench). In their letter dated 12 July 2023, the Estonian authorities informed the CPT that the aforementioned cell would only be used very exceptionally, for periods not exceeding a few hours, and that whenever a serviceman were to be placed there the cell would be fitted with a mattress or a bench. The Committee welcomed this quick and positive response to its delegation's observations.

As concerns detention of up to 14 days (for more serious disciplinary infringements), the delegation was concerned to note that military servicemen serving their disciplinary punishment at Tallinn (Police) Detention House were not offered genuine outdoor exercise whenever their detention exceeded 24 hours (unlike other categories of detained persons). In the aforementioned letter of 12 July 2023, the Estonian authorities stated that military servicemen held at Tallinn Detention House were entitled to daily outdoor exercise (as this right was foreseen in the military disciplinary legislation) and informed the CPT that the Ministry of the Interior had been requested to investigate the situation. The Committee requested to be informed of the outcome of this inquiry and, in particular, to receive confirmation that military servicemen held at Tallinn Detention House (and, as applicable, in all other detention houses under the responsibility of the Ministry of the Interior) have indeed access to genuine daily outdoor exercise.