



Response

**of the Estonian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Estonia**

from 29 May to 8 June 2023

The Government of Estonia has requested the publication of this response. The CPT's report on the 2023 visit to Estonia is set out in document CPT/Inf (2024) 26.

Strasbourg, 26 September 2024

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1. INTRODUCTION

1.1.1. National Preventive Mechanism

- ***6 In 2022, the Office of the Chancellor of Justice had received 344 complaints from prisoners. As in the past, the staff assigned to the NPM unit were also involved in the processing of complaints.***

In this connection, the CPT recalls that it is not advisable to involve staff dealing directly with complaints in the work of the NPMs. Whenever the same institution is designated to handle complaints and to monitor places of deprivation of liberty, both functions should preferably be kept separate and performed by clearly distinct entities. The CPT invites the Estonian authorities to review the organisation of the NPM in the light of the preceding remark.

Thank you for bringing this to our attention.

The NPM unit has focused in particular on organising inspection visits to custodial institutions, and the handling of complaints effectively contributes to the organisation of inspection visits. OPCAT is complementary to the measures of the National Ill-Treatment Prevention Framework (including investigation of complaints) established under UNCAT Articles 2 and 16 and does not explicitly prohibit the NPM from handling complaints. The handling of complaints does not impede the performance of the tasks of the Estonian NPM and does not endanger the independence of the NPM or its employees. The content of the complaints in many ways overlaps with the issues that the NPM deals with during inspection visits. The purpose of handling complaints is to enhance the protection of the rights of detained persons and is therefore not an activity in conflict with or weakly related to the main line of work of the NPM as set out in Article 3 of OPCAT. The handling of complaints is also aimed at combating the ill-treatment of people in custodial institutions and the information obtained in this way will allow the NPM to carry out the work defined in Article 3 of OPCAT in a much more targeted and efficient way. Such action also avoids the division and dispersion of information about ill-treatment among different employees and gives the NPM staff a comprehensive and broad overview of what is happening in custodial institutions.

2. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

2.1. Police and Border Guard Board establishments

2.1.1. Ill-treatment

- **13. 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 Board 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 Committee recommends that all Police and Border Guard Board officers be reminded that using such derogatory language is prohibited and will be sanctioned accordingly.**

At the present time, no applications or complaints have been filed with the Police and Border Guard Board by detained aliens concerning the use of derogatory language referring to their nationality or ethnic origin, as a result of which the Police and Border Guard Board has not initiated disciplinary proceedings against officials or officers regarding a complaint concerning the use of derogatory language, customs or religious origin referring to the nationality or ethnic origin of aliens in custodial institutions of the Police and Border Guard Board.

- **14. As regards investigations into complaints of ill-treatment filed by persons deprived of their liberty by the Police and Border Guard Board, the authorities informed the delegation that, since the beginning of 2022, there had been 50 decisions to discontinue criminal proceedings and eight decisions to initiate criminal proceedings based on allegations of 'unlawful use of a weapon, special equipment or physical force by an official' (Section 291 of the Penal Code). This type of allegations led, in the same period, to the initiation of six disciplinary proceedings against police officers. The CPT would like to receive, in respect of the aforementioned criminal and disciplinary proceedings, an account of the reasons for discontinuing the proceedings or for the imposition of criminal or disciplinary penalties.**

According to the corrected data (in the follow-up inspection, the Internal Control Office of the Police and Border Guard Board detected a data quality error — in one case there was a mistake in assigning the correct legal provision), the Police and Border Guard Board made 49 decisions not to initiate criminal proceedings. In 47 of these cases, criminal proceedings were not initiated on the basis of clause 1 of subsection 1 of § 199 of the Code of Criminal Procedure, ie there were no grounds for criminal proceedings, and in two cases on the basis of clause 2 of subsection 1 of § 199, ie the limitation period of the criminal offence had expired.

Of the eight criminal proceedings initiated, six have so far been terminated on the basis of clause 1 of subsection 1 of § 199 of the Code of Criminal Procedure (ie there were no grounds for criminal proceedings). In one case, the conviction has entered into force and in one case the proceedings have been terminated by the court on the basis of subsection 1 of § 202 of the Code of Criminal Procedure (ie because there is no public interest in pursuing the case and the person is not culpable to a high degree).

Of the six disciplinary proceedings initiated, one is currently pending, in which the official has been removed from service for the duration of the disciplinary proceedings. In one case, a wrongful violation of duties of employment was established, but no disciplinary penalty was imposed. In three cases, a reprimand was imposed as a disciplinary penalty. In one case, release from service was imposed as a disciplinary penalty.

2.1.2. Safeguards against ill-treatment

- **16. 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. However, a few detainees claimed that they had not been informed of this right (see paragraph 19 below). Moreover, some detainees had reportedly not received feedback on whether the notification had indeed been carried out. The CPT recommends that the Estonian authorities take steps to ensure the right of persons deprived of their liberty by officers of the Police and Border Guard Board (irrespective of the legal grounds) to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty. Further, the Committee reiterates its recommendation that detained persons be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention. The relevant legislation and/or regulations should be amended so as to oblige the Police and Border Guard Board to record in writing whether or not notification of custody has been performed in each individual case, with an indication of the exact time of notification, the identity of the person who has been contacted, and that the detained person has been informed of the successful notification. A waiver of the right to notify a relative or a third party should be systematically signed by the person deprived of their liberty if they do not wish to exercise that right.**

The Police and Border Guard Board confirms that from the time of the initial detention within the framework of various proceedings, the detained person has the right to notify a person close to them about the detention within the first 48 hours, except in the case specified in subsection 10 of § 217 of the Code of Criminal Procedure, ie if the notification is likely to harm criminal proceedings, the opportunity to notify a close person or notification of a minor's arrest may be denied with permission of the Prosecutor's Office. Restrictions on notification are made in exceptional cases only in order to minimise harm to the procedural interest, and in such cases the person close to the prisoner is notified about the detention by an official in connection with the proceedings. In the annex 'Custody record', established on 7 September 2021, to the work manual of the Police and Border Guard Board's custodial institution, an amendment has been introduced on the indication of notification of a close person, and the notification is recorded with the prisoner's own signature or the signature of the official.

- **17. 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. However, a few persons alleged that they had not been informed of their right of access to a defence counsel, especially in cases where the persons did not speak Estonian (on this issue, see also paragraph 19 below). The CPT recommends that the Estonian authorities take steps to ensure that the right of access to a defence counsel (including the right to speak in private with one's lawyer with, if necessary, the assistance of an interpreter) is effectively guaranteed to all persons detained by the Police and Border Guard as from the very outset of their deprivation of liberty.**

The right for defence is always guaranteed to all prisoners who make a corresponding request. If the suspect does not have a contractual representative, the possibility of exercising the right of defence is ensured under the procedure of state-funded legal aid in such a way that, after the suspect has made a request, an attorney is appointed from among the attorneys providing state-funded legal aid appointed by the Estonian Bar Association (the choice of defence counsel is made by the Estonian Bar Association under an order on granting state-funded legal aid).

A person who has been arrested is notified immediately of their right to defence counsel (rule arising from subsection 2 of § 33 of the Code of Criminal Procedure), and the prisoner will also be informed of this right, for example, by means of a declaration of rights presented to them after their arrest in the form of hard copy (against a signature) (requirement arising from subsection 2 of § 35¹ of the Code of Criminal Procedure, content accessible through subsection 4 of § 35¹), which is available to all officials in the most common languages: Estonian, Russian, Finnish, English, German, Polish, Latvian, Swedish, Lithuanian, Slovak, Czech, Spanish, French, Arabic, Turkish, Bengali, Ukrainian, Farsi, Romanian and Italian). The declaration of rights states, inter alia, the right to the assistance of the defence counsel, private meetings with the defence counsel and the counsel's participation in procedural operations arising from clauses 3, 4 and 5 of subsection 1 of § 34 of the Code of Criminal Procedure. Such a right arises from the first (public) procedural operation (the prisoner's right to a defence counsel).

Also, when initiating any procedural operation, the proceedings authority is obliged to explain to the person their rights and obligations, as well as the purpose of the procedural operation. If it is necessary to use the assistance of an interpreter, it is the duty of the proceedings authority to involve an interpreter.

- ***18. The Committee has recommended ever since its very first visit to Estonia (in 1997) that steps be taken to ensure that prisoners 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). The right of access to a doctor should include the right, if the detained person so wishes, to be examined by a doctor of his or her own choice (in addition to any medical examination carried out by a doctor called by the Police and Border Guard Board). Regrettably, these long-standing recommendations have remained unimplemented. The CPT once again calls upon the Estonian authorities to take the necessary measures – including at the legislative level – to ensure that all persons detained by the Police and Border Guard Board are entitled by law and granted in practice the right to have access to a doctor as from the very outset of their deprivation of liberty.***

The relevant provisions should make clear that:

- ***a request by a detained person to see a doctor should always be granted;***
- ***it is not for officers of the Police and Border Guard Board, nor for any other authority, to filter such requests;***
- ***persons taken into police custody have the right to be examined, if they so wish, by a doctor of their own choice, in addition to any medical examination carried out by a doctor called by the Police and Border Guard Board (it being understood that an examination by a doctor of the detained persons' own choice may be carried out at their own expense); and,***
- ***the exercise of the right of access to a doctor is to be recorded systematically in the custody records.***

Addressing the issue of the provision of health service in the custodial institutions of the Police and Border Guard Board is currently a priority in the custody service. At the beginning of 2023, the current Health Services Organisation Act was amended and from 1 July 2024 all Estonian custodial institutions will be merged into one unified healthcare system.

The Health Insurance Fund has mapped out a summary of the provision of health services at the Police and Border Guard Board's custodial institutions and has also made its own proposals to improve access to medical care. In the case of initial detention, everyone is provided with unavoidable first aid within 48 hours if needed, and the medical service is recorded in the prisoner's documentation,

which can later be checked in a reproducible form and accompanies the prisoner when changing custodial institutions.

- **19. Most of the detained persons interviewed by the delegation confirmed that the Police and Border Guard Board officers had provided them with information on their rights. This was first (immediately upon apprehension) done orally and followed shortly after (upon arrival at the detention facility) by handing out a written information sheet (available in a wide range of languages including Estonian, Russian and English). [---] In the light of the above, the Committee recommends that the Estonian authorities ensure that persons detained by the Police and Border Guard Board are systematically informed of their rights in a language they understand as from the very outset of their deprivation of liberty. In particular, when written information is provided, detained persons must be asked to sign a statement attesting that they have been informed of their rights (with the indication of the precise time of arrest and of the time when information on rights was provided) and be allowed to keep a copy of the information sheet. If necessary, the absence of a signature should be duly accounted for. Moreover, particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on Police and Border Guard Board officers to ascertain that this is the case.**

As explained earlier (in response to paragraph 17), the detained person is immediately informed of their rights and obligations and a declaration is handed over to them in the form of hard copy and in understandable language against a signature (requirement arising from subsection 2 of § 35¹ of the Code of Criminal Procedure, content accessible through subsection 4 of § 35¹). The declaration of rights is available to all officials (via intranet) in the most common languages — Estonian, Russian, Finnish, English, German, Polish, Latvian, Swedish, Lithuanian, Slovak, Czech, Spanish, French, Arabic, Turkish, Bengali, Ukrainian, Farsi, Romanian and Italian, but if the person is not proficient in any of those languages, the Police and Border Guard Board must provide translation as soon as possible.

We also emphasize that at the initiation of each procedural operation, the proceedings authority is obliged to explain to the person their rights and obligations, and the fulfilment of that obligation is recorded in the (procedural operation) record with the signature of the person whose case is dealt with under the procedure. This is a data field present in all the templates of procedural documents, and deficiencies in it are easily identified, both by the proceedings authority and by the Prosecutor's Office or the court.

2.1.3. Conditions of detention

a. police detention houses

- **23. Overall, both detention houses 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. The Committee recommends that steps be taken in both aforementioned establishments to ensure that anyone held there for 24 hours or more is offered at least one hour daily outdoor exercise in premises allowing access to fresh air and genuine physical exertion.**

The Police and Border Guard Board confirms that during the first 48 hours the detainee has the opportunity to stay outdoors in all custodial institutions of the Police and Border Guard Board (except Haapsalu Police Station). The construction of a separate exercise yard has been completed in the

Kuressaare Detention House, and since May 2024, a proper exercise yard for staying outdoors has been provided in the Kuressaare Detention House.

- **24. Further, given that persons could still be detained in detention houses in excess of 48 hours (eg those sentenced for misdemeanour and, occasionally, pre-trial custody), the CPT recommends 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).**

The Police and Border Guard Board does not create legislation independently and the length of detention periods is determined by law. The detainee is provided with items allowed under the internal rules, including books, newspapers, etc. At the moment, all detainees in detention houses are provided with the opportunity to listen to the radio, one daily newspaper *Postimees*, read books, use a computer with limited privileges, etc. Staying outdoors for at least one hour a day is also guaranteed.

- **25. Segregation for security reasons pursuant to Section 69 of the Imprisonment Act (known in the police context as “separation”) was sometimes resorted to at Tallinn Detention House. While a specific register was properly kept to record the imposition of segregation (including the hourly checks performed by police officers and any instances of use of force), the officer in charge stated that there existed no individual written decisions on segregation, so the reasons justifying the measure and the related safeguards (eg possibility to challenge the decision) were not notified to the concerned person in writing. The Committee recommends that a written decision on the imposition of segregation pursuant to Section 69 of the Imprisonment Act, setting out the grounds justifying the measure and the related safeguards, be drawn up systematically and given to the detained persons concerned.**

While examining the segregation register, the delegation came across a case (dating back to July 2022) in which a detained person had been placed in isolation due to his “aggressiveness”. A note in the register specified that the person was “in need of methadone” and that he had attempted to commit suicide while in segregation. It would appear that, despite the above-mentioned, no call had been made to healthcare services. The CPT would welcome the Estonian authorities’ observations on this subject.

The filling out of the isolation card [we use hereinafter the term ‘isolation’ when in reference to clause 4 of subsection 2 of § 69 of the Imprisonment Act and which the Report refers to as ‘segregation’] of the prisoner in the detention house is in accordance with the current internal rules, and a reasoned decision on the implementation of isolation is prepared for each case of isolation. In the case of addictive disorders, the solution in the future will be the provision of medical services in detention houses by a cooperation partner of the Health Insurance Fund who has the right to handle psychotropic substances.

b. other Police and Border Guard Board detention facilities

- **27. Conditions of detention were satisfactory at Viljandi Police Station; they do 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 (instead, detainees used two ‘walking cells’ of a design similar to the ‘walking cell’ at Kuressaare Detention House). [---] The Committee recommends that steps be taken to refurbish the cells at Narva Police**

Station (in particular, improving the ventilation) and make sure that they are kept clean. The small cells for intoxicated persons should never be used for periods of detention exceeding a few hours (and never overnight). As regards access to genuine outdoor exercise at both Narva and Võru Police Stations, reference is made to the recommendation in paragraph 23 above, which applies equally here.

The Police and Border Guard Board confirms that the former detention cells at Narva border point have been closed and decommissioned, and after the persons are detained, they will be immediately transferred to the short-term custodial institution at the Narva Police Station. All detentions applied in a short-term custodial institution are recorded in the information system by date and time.

- **28. The delegation also visited Tallinn Sobering-up Centre, an establishment operated by the Police but employing also a number of nurses who ensured a 24/7 presence. Material conditions were generally adequate, all the cells being in a good state of repair and cleanliness. In the CPT's view, holding such persons in an establishment without an easy access to appropriate mental healthcare, only because of their intoxication, could be considered rather questionable from a medical point of view. Furthermore, no standardised procedure was in place to assess withdrawal symptoms and calibrate the use of benzodiazepines (eg CIWA scale) in order to prevent serious complications such as *delirium tremens*. The Committee would welcome the Estonian authorities' observations on this subject.**

Detention of intoxicated persons and persons with health risks arising from the interaction of addiction disorders and unstable mental health conditions in Police and Border Guard Board custodial institution is a problem, and detention of an intoxicated person with symptoms indicative of a mental health problem during the sobering up process requires additional supervision on the part of the Police and Border Guard Board. Why medical institutions do not admit intoxicated persons with mental health problems to a medical institution is not known to the Police and Border Guard Board, and the Police and Border Guard Board cannot answer this question.

- **29. *Luhamaa Border Post had two single-occupancy holding cells measuring 5 m² each, equipped with a bed, call bell, CCTV and a small window, with a toilet and a washbasin available outside. The officer in charge stated that they were intended for detention periods of a maximum of a few hours. According to the custody register, these cells had last been used in October 2022, but it was not possible to verify the length of detention. The CPT recommends that steps be taken to ensure that the custody register at Luhamaa Border Post is properly kept, including the exact date and time of the beginning and the end of each detention period.***

When using a place of detention at the border post, a corresponding journal is provided for the registration of the prisoner's details, the date and time of placement in a place of detention and the time of release.

- **30 As for Narva Border Post, it possessed two windowless cells measuring 5 m² each, which, according to the officer in charge, had been declared unfit for their purpose and had not been used for at least one and a half years, as apprehended persons were immediately taken to Narva Police Station. The CPT wishes to receive confirmation from the Estonian authorities that the two aforementioned cells have indeed been taken out of service.**

The Police and Border Guard Board confirms that the former detention cells at Narva border point have been closed and decommissioned, and after the persons are detained, they will be immediately transferred to the short-term custodial institution at the Narva Police Station.

c. immigration detention facility

- **33. Material conditions at the Centre were very good. All rooms were of a reasonable size (most could accommodate up to four detainees but were occupied by one or, at times, two persons), had good access to natural light and artificial lighting, and were well-ventilated and clean. They were also adequately furnished and contained detainees' personal items. Further, foreign nationals had unrestricted access to communal sanitary and shower facilities, which were in a good state of repair and cleanliness. However, the outdoor facilities of the Centre's admission unit – in which newly-arrived foreign nationals were accommodated for the first few days – 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. The Committee recommends that this outdoor area be fitted with a means of rest and a shelter against inclement weather along with, preferably, some equipment for physical exercise.**

The recommendation of the CPT has been taken into account and, in accordance with the funding of the existing AMIF fund, shelters will be acquired for courtyards of the Detention Centre, in addition to some sports equipment. Acquisition and installation are planned for 2024 and 2025.

- **34. As regards the regime, the CPT welcomes the fact that, during the day, foreign nationals were allowed to move freely within the Centre, including its outdoor area, which was equipped with sport facilities. In addition, they had access to communal rooms, and were able to watch television, use computers and a printer, play board games or read newspapers/books. However, it is a matter of concern that most of the foreign nationals who had been held in the Centre for prolonged periods were not offered any organised activities. The Committee is of the view 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. Consequently, the CPT recommends that steps be taken to offer a broader range of organised activities to foreign nationals held at the Centre for prolonged periods.**

Leisure activities and language training for aliens have been organised at the North Prefecture Detention Centre. Since the summer of 2023, a separate employee has been hired from the AMIF project budget to supervise sports activities, and on a daily basis various leisure activities are carried out by a separate Recreation Officer. Aliens held at the Detention Centre have organised activities 5 days a week and participation in the activities is voluntary.

- **35. Health service at the Centre was provided by two general practitioners who attended the establishment from Monday to Thursday for a combined total of 15 weekly hours (0.3 FTE), and three nurses who took shifts to ensure a presence of four hours every day including weekends (0.5 FTE). The staffing level was adequate in relation to the low occupancy prevailing at the time of the visit, but would need to be increased if a higher number of detained foreign nationals arrived at the Centre. Emergency medical care and transfers to hospitals as well as outside consultations were arranged whenever necessary. However, the CPT must stress the need for particular attention to be paid to the mental health and psychological state of foreign nationals in custody, some of whom are asylum seekers and may be affected by previous traumatic experiences, while others might be suffering from psychological stress while awaiting deportation. In this context, steps should be taken to ensure that the Centre is visited on a regular basis by mental healthcare professionals, such as a psychiatrist and a psychologist. Furthermore, the delegation was concerned to observe that custodial staff were involved in the distribution of medication to detained foreign nationals and, sometimes, remained within hearing range during medical**

examinations (namely, in the consultation room or just outside the room with the door open). The Committee recommends that steps be taken to ensure that medication is distributed exclusively by healthcare professionals, and that medical examinations are conducted out of the hearing and – unless the healthcare staff expressly request otherwise in a given case – out of the sight of non-medical staff.

The medical service in the Detention Centre is guaranteed on all days of the week and the medical service is financed from external funds. The service of a psychologist on a needs-based basis is also provided.

- **36. As regards medical screening of persons arriving in the Centre, a health questionnaire was completed by a nurse. The procedure included voluntary screening for transmissible diseases (HIV, hepatitis B and C) and a basic physical examination (blood pressure, temperature, etc.), whereas there was no systematic screening for mental health antecedents. Injuries were recorded, but without inclusion of persons' testimony and the doctor's conclusions regarding the origin of the injuries. No dedicated injury register was kept. The CPT recommends that the Estonian authorities take the necessary measures to ensure that the medical screening upon arrival at the Centre:**
 - a. **enables the identification of potential mental disorders, acute and chronic diseases, infections, addiction, injuries, medication needs as well as traumatic disorders and signs of victimisation, including violence or abuse;**
 - b. **includes the recording of any signs of injury, together with any relevant statements of the detainee and the doctor's conclusions regarding the origin of the injuries. Further, a dedicated register on injuries observed on detainees during admission and detention should be put in place.**

As of 1 July 2024, the Health Insurance Fund will be providing healthcare services in accordance with the provisions of the Minister of Social Affairs Regulation No 40 'The extent and procedure of funding from the state budget the medical screening of an applicant for international protection and a person to be expelled and necessary health services provided to him or her' of 6 December 2013. Regarding the movement of the service to the Health Insurance Fund, the Regulation is currently being amended.

- **38. *By contrast, the arrangements for contacts with the outside world were not fully satisfactory. Detained foreign nationals were allowed to send and receive letters, have short-term supervised visits (every day during visiting hours for up to three hours), and make telephone calls using the Centre's telephones. However, there was no opportunity to have unsupervised long-term family visits. [---] The Committee invites the Estonian authorities to consider extending the possibilities for foreign nationals to have contact with the outside world, including by permitting the organisation of long-term unsupervised visits, and by allowing detainees to use internet-based communication channels (such as Voice-over-Internet-Protocol).***

In connection with the Supreme Court's judgment of 2023, the Detention Centre's internal rules were amended and rules of procedure updated. After the change, 30 mobile phones were purchased for the Detention Centre, and from 1 January 2024, aliens are allowed to use mobile phones every day, including data communication. Also, with the support of the AMIF project, public computers have been increased to 15 and the scope of use of websites has been increased.

2.2. Penitentiary establishments

2.2.1. Preliminary remarks

- **41. At the time of the visit, the total official capacity of the prison estate was 2.921 places in closed prison and 237 places in open prison. As indicated above, 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. As for the open units, the overall occupancy rate stood at 79%, meaning that there remained 50 available places across the prison estate. Given the greater potential for social reintegration inherent in this type of regime, the Committee invites the Estonian authorities to pursue their efforts to involve as many prisoners as possible in the open prison.**

We wish to specify that in prisons there are a total of 3,041 places in closed prison and 237 places in open prison.¹ Also, at the time of preparing the response, the overall occupancy rate of the open prison is at 86% and there are only a few prisoners waiting to be placed in open prison. We are also constantly updating and revising the criteria for placement in open prisons and the Prison Service's strategic goal is to use open prisons to the maximum extent.

As many prisoners as possible have been relocated to the open prison unit. This means that if the prisoner meets the conditions for transfer to an open prison, a corresponding procedure will be carried out and the prisoner will be placed in the open prison unit. It is not possible to fill the Tallinn and Tartu open prisons 100% because there are places for female prisoners and it is not possible to place male prisoners in these places. In addition, in practice, there are situations in which a prisoner transferred to an open prison is temporarily placed in a closed prison (eg for the duration of disciplinary proceedings). However, this cell place in the open prison cannot be filled, since, as long as the proceedings are pending, it is not clear whether the same prisoner will be placed back in the open prison or not. Prisons make sure that all prisoners who meet the conditions for transfer to an open prison and a corresponding decision has been made for their relocation, are relocated to an open prison unit as soon as possible.

In 2023 we also relaxed the conditions for supporting prisoners in their premature release on parole prescribed to prisons so far, giving prisons more room for consideration to support early release for a broader target group (a certain level of risk and danger). In making a decision, the prison assesses whether the convicted person has completed the intervention activities planned in the individual treatment plan. If the convicted person has completed all the intervention activities planned in the individual treatment plan, the prison supports the convicted person continuing to serve their sentence under probation supervision.

In the case of persons whose premature release on parole is supported by the prison, but the court does not release the person prematurely on parole, the prison must consider transferring that person to open prison. This will expand the possibilities for the transfer of prisoners to open prison. In addition, as a result of the amendment, the prison supports all persons continuing to serve the sentence under probation supervision (including those in the reinforced security unit and those serving sentences for an offence against the state) upon such person filing a request for premature release on parole.

- **42. Since the last visit in 2017, the total prison population has continued to steadily decline, in line with a decades-long trend in Estonia with the total number of prisoners at the time of the present visit at 1,854, which means that the prison population decreased by 24% as compared to 2017 (when there were 2,455 prisoners in closed prison) and by 45% as compared to 2012 (3,389 prisoners in closed prison). Accordingly, the national incarceration rate has also maintained its downward trend, falling from 250 prisoners per 100,000 inhabitants in 2012 to 210 in 2017, finally reaching 162 prisoners**

¹ The maximum number of prisoners, arrested persons and persons held in custody in a prison are established in § 1² of the Minister of Justice Regulation No 9 "Treatment Plan" of 25 March 2008. Available at: <https://www.riigiteataja.ee/akt/123012024003>

per 100,000 inhabitants in 2022 (latest data). [---] The CPT recommends 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, taking into account the relevant Recommendations of the Committee of Ministers of the Council of Europe. Given the low prison occupancy rate, the Committee also invites the authorities to consider repurposing the available space in the establishments to expand the opportunities for association, activities, work and education (see paragraph 62 below).

Alternative sanctions are one of the priorities of Estonia's criminal policy, the aim of which is to reduce repeat crime and the number of prisoners. The proportion of prisoners in the population is decreasing every year, and in 2023 the number of prisoners fell below 2,000 for the first time and continues to decline. This brings us closer to the European average, which is the result of years of determined work.

In the near future, we plan to address changes that contribute to the aforementioned objective — for example, expanding the use of probation supervision and improving their working methods and practices.

- **43. The CPT acknowledges the efforts made by the Estonian authorities to provide prisoners with adequate living space. In all prisons visited, prisoners were offered at least 6 m² in single-occupancy cells and 4 m² per person in multiple-occupancy cells. That said, it is matter of concern that, despite the specific recommendation repeatedly made by the Committee after its previous visits, the minimum standard of living space per prisoner stipulated in the law was 3 m² in closed prison and 2.5 m² in open prison. The CPT once again calls upon the Estonian authorities to raise the legal minimum standard of living space per prisoner in multiple-occupancy cells to 4 m² (not counting the area taken up by in-cell sanitary facilities) without any further delay.**

In all three prisons, prisoners are guaranteed at least 4 m² of personal space. The amendment of the legislation is rather a technical issue and is being debated.

- **44 As regards legislative developments affecting the prison system, the Committee was informed that a draft law was under discussion, the purpose of which was to decrease the maximum legal duration of disciplinary isolation, allowing, as a rule, prisoners in disciplinary isolation to receive short-term and long-term visits, increasing the duration of short-term visits for all categories of prisoners and making it easier for prisoners to submit complaints. The CPT recommends that the aforementioned legislative amendments be adopted as a matter of priority.**

These legislative amendments were pending in the in the Riigikogu in proceedings in Bill 227 SE, which entered into force on 1 April 2024. ²

As a result of the amendment, the length of a single penalty to be served in a punishment cell may not exceed 14 days for adults and 3 days for underaged prisoners. If the total amount of several penalties to be served in a punishment cell to be enforced exceeds 14 days, the person may not stay in the punishment cell for more than 14 consecutive days without a reasonable length of break in the general regime.

In addition, the prison service allows short-term and long-term visits of family members on general terms for a prisoner placed in a punishment cell to serve a disciplinary penalty. Thus, the prison

² Imprisonment Act and Other Acts Amendment Act (Modernisation of the Imprisonment Act and Adoption of Digital Solutions) 227 SE - <https://www.riigikogu.ee/tegevus/eelnoud/eelnou/ab2a14ca-1c1f-4ab4-8f42-09ef69cf194e/vangistusseaduse-ja-teiste-seaduste-muutmise-seadus-vangistusseaduse-kaasajastamine-ja-digilahenduste-kasutusele-votmine/>

service has discretion to decide on visits of prisoners serving a penalty in a punishment cell, insofar as the amendment allows visits to be had on the condition that the prisoner has not been prohibited from visits under § subsection 4 of § 65¹ of the Imprisonment Act (The prison service may partially or fully restrict short-term and long-term visits to a prisoner who is committed to a punishment cell).

The duration of short-term visits was also extended from three hours to four. The Imprisonment Act was supplemented by a provision according to which the prison service, if there is a secure technical option, may also allow short-term visits via a television bridge.

2.2.2. Ill-treatment

- **47. At Tartu and Viru Prisons, the delegation also received a few isolated allegations of verbal abuse by prison guards, including (at Tartu Prison) some having racist undertones. Further, some prisoners interviewed by the delegation at Viru Prison referred to other forms of disrespectful or provocative behaviour by custodial staff, such as making derogatory comments in relation to prisoners' pending court cases (especially with respect to prisoners placed at the 'Supermax' reinforced security unit, see paragraphs 99–103 and 80 below).**
- **48. In the light of the observations in paragraphs 46 and 47 above, the CPT recommends 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.**

We agree that training and awareness-raising for prison staff is necessary and must be carried out consistently. We note, for example, that this year it is planned to give prison officers (first managers and later the entire service staff) a more thorough overview of cases where prison officers have erred against the established rules and have been punished for it. In the course of this notification process, we will certainly individually repeat the relevant guidelines of the CPT.

Officials in the internal control and HR departments are also currently developing a new value-based code of ethics, the draft of which sets out a number of principles and examples that support the non-use or incitement of physical or verbal violence by a prison officer. One of the most important values of the prison service is humanity, and as a result, the entire institution works to ensure that the service employs people who carry our values and who by their actions and words do not cause additional trauma to the prisoners.

- **49. From the information gathered during the visit, there does appear to be a continuing need to provide improved training for custodial officers. Whilst fully acknowledging the difficulties that prison staff may face in dealing with persistently uncooperative and/or aggressive prisoners (and whilst understanding that security and good order must be maintained in any penitentiary establishment), the CPT has stressed many times in the past that more effective and durable security may be achieved by promoting constructive staff-prisoner relations which, by consequence, contribute not only to developing a better working and living environment (based upon the dynamic security approach) but also to supporting prisoners' social reintegration. Consequently, the Committee recommends that more emphasis be placed on training prison officers on how to manage challenging prisoners and, if recourse to use of force is necessary, how to apply control and restraint measures in a professional manner which does not result in injuries to either the staff or the prisoner concerned. Training should include verbal communication and de-escalation techniques, particularly in respect of prisoners who, due to long periods of isolation, are susceptible to developing psychosocial vulnerabilities.**

Training of prison officers is carried out systematically and at a high level at the Prison Service College of the Estonian Academy of Security Sciences. The training of Estonian prison officers can be considered one of the most comprehensive in Europe. All current curricula (vocational and higher education) include motivational interviewing training to pay attention to the communication skills of prison officers. Motivational interviewing trainings have also been conducted for officials who are already employed. We want different situations to be resolved through professional communication and prison officers to be able to notice different problematic situations already in the course of communication. In addition, there are ongoing training courses (initial in-depth basic skills training and then training in handling special equipment and security tactics 1–2 times each quarter) to ensure the skills of prison officers to operate professionally and safely in emergency situations. Periodic trainings cover security tactics, first aid, the use of special equipment (armour, shield, fire extinguishers), event management, the use of weapons, special equipment and force. Communication and de-escalation or freezing of the situation, as well as the use of force based on minimum necessity and proportionality, are of great importance in all activities.

We will certainly keep the focus on practices that consider verbal communication, dynamic security, restorative justice methods and psychological trauma, and we will also base this on the design of our training programs.

- ***50. In the past, the CPT has criticised the lack of independence of the body in charge of investigations into allegations of ill-treatment by prison staff. During the 2023 visit, such investigations continued to be carried out by Internal Control Units created in each prison, which processed prisoners' crime reports (and, until recently, prisoners' complaints) relating to staff misconduct and conducted disciplinary or criminal proceedings against prison officers. The Units belonged to the Department of Prisons and operated under the control of a central unit, the Head of which reported directly to the Deputy Secretary-General of the Ministry of Justice, who was the Head of the Prison Department. Decisions to discontinue an investigation could be challenged by prisoners before the Prosecutor.***

The Committee must reiterate its view that persons carrying out such investigations should be independent of those implicated in the events, and that this requirement implies that investigators and persons subject to investigation should not be part of the same chain of command. The Committee calls upon the Estonian authorities to take steps without further delay to ensure that all allegations of ill-treatment of prisoners by prison staff are investigated by a body which is independent of the prison concerned and preferably of the prison system as a whole.

We consider our working arrangements to be expedient and reasoned and do not plan to make major changes. The officials at the Internal Control Department are under the direct supervision of the Head of the Internal Control Service of the Department of Prisons of the Ministry of Justice as of 10 October 2021 and are subordinate to the prison Director only in the issues concerning organisation of the protection of state secrets, since the latter is required by law (subsection 3 of § 20 of the State Secrets and Classified Information of Foreign States Act). The Internal Control Service of the Department of Prisons decides who to employ in the Internal Control Department and the day-to-day management and guidance of the official comes directly from the Department of Prisons.

Matters concerning, for example, cases of ill-treatment of prisoners (disciplinary and criminal proceedings) are handled directly by the Prison Department, and criminal proceedings are conducted in Estonia by the Prosecutor's Office, which is a body completely independent of the prison service. The decision on and conduct of criminal proceedings is under the direction of the Department of Prisons and the Prosecutor's Office and is completely independent of the prison management. Although disciplinary proceedings can be initiated in Estonia with the order of the head of the institution, who is, among other things, the person imposing the penalty, the entire procedure is conducted by internal control independent of the head of the institution and only under the supervision of the officials of the Department of Prisons.

The independent institutions to which prisoners can address with their complaints are, in particular, the courts and the Office of the Chancellor of Justice, but also, depending on the content of the complaint, several other institutions, eg the Estonian Data Protection Inspectorate, the Health Board, etc.

- **51. 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. While staff appeared to be generally proactive in preventing and, when incidents occurred, appropriately dealing with such cases, the CPT invites the Estonian authorities to remain vigilant as regards incidents of inter-prisoner violence and intimidation and make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation. Achieving this objective will require improving the training of custodial staff in dynamic security (see paragraph 49 above).**

We thank you for bringing this to our attention and confirm that we are working consistently to achieve this goal through the improvement of daily work practices and training. Reducing various incidents is also a strategic goal of the prison service. See also response to paragraph 49.

2.2.3. Conditions of detention

a. Material conditions

- **54. While overall material conditions do not call for any particular comment, a few shortcomings remained in the three establishments visited. First, as had been the case during the 2012 and 2017 visits, the delegation received many complaints that ventilation was inadequate, especially from prisoners accommodated in cells the windows of which could not be opened. The CPT reiterates its recommendation that the Estonian authorities take the necessary measures to ensure that all cells have adequate access to fresh air. [...] The Committee recommends that steps be taken to ensure that all prisoners have the possibility to take their daily outdoor exercise in conditions which enable them to physically exert themselves; all the exercise yards should, in principle, offer a horizontal outside view. The Estonian authorities are also invited to explore the possibility of enlarging the yards (for example by merging two adjacent yards) and installing windows in the concrete walls.**

The prison service is constantly working to improve the conditions of the walking boxes. Walking boxes are fitted with bodyweight exercise equipment such as parallel and horizontal bars for performing pullups. Each prison has one or several wire-net-restricted exercise court for basketball, soccer, and other activities. Exercise courts in all prisons are designed to allow a horizontal view. At Viru Prison, for example, various outdoor training equipment (outdoor gym) has also been added to the exercise courts. We note that the reconstruction of concrete facilities is difficult, but we are constantly considering options for diversifying the conditions of the prisoners.

- **56. A recurrent complaint heard from prisoners in the three prisons visited concerned the allegedly insufficient quantity (and sometimes also the temperature) of the food provided; this was reportedly a source of tension between prisoners and custodial staff, which led to frequent requests from prisoners to measure the weight (and in some cases the temperature) of food portions. Several prisoners told the delegation that they had to regularly buy food from the prison shop to satisfy their nutritional needs. A few prisoners also complained about the unavailability of food corresponding to their religion. The CPT would welcome the Estonian authorities' observations on this subject.**

When organizing catering, we follow certain rules and are subject to the control of external organisations of the prison service. Based on the feedback from the intensified inspection carried out by the Health Board in August 2023, we answer the following.

In 2023, a total of 9 appeals were forwarded to the Health Board, in which prisoners expressed dissatisfaction with the current food standards and the quality of the food provided. As problem areas, the size of the food portions, the monotony of the menu and the organoleptic characteristics of the food were highlighted by the prisoners.

The Health Board examined in detail the compliance of the menu used in prisons with food standards. The results showed that in all Estonian prisons the catering of prisoners is organized centrally and is carried out according to the same menu and the same principles. The menu is compiled for one week, and it is repeated every three months. The organizer of catering for prisoners decides on the expediency of changing dishes based on the principles of mass catering. Theoretical food energy content from food covers the average daily food energy requirement of prisoners. For prisoners with special needs, a special menu is prepared according to the decision of the doctor. The minimum theoretical content of vitamins and minerals corresponds to the standard.

In August 2023, the Health Board also carried out an unannounced in-depth inspection at Tallinn Prison, ie checked the content and weight of the prepared food portions served for breakfast, lunch and dinner. The compliance of the breakfast, lunch and dinner sets with the documentation for the preparation of the menu, as well as the weight of the portions of the three meals were checked. Photographs of the food served were also taken. No deficiencies were identified in terms of the content or weight of the food portions (with the actual weight being rather slightly higher than prescribed).

- ***57. At Tallinn Prison, the delegation visited the Mother-and-Child Unit. Comprising four cells (each providing room for a mother and a child), at the time of the visit the Unit was vacant, the last prisoner having been transferred to the open unit a few months prior. Material conditions in the Unit were good, with appropriate living space and dedicated equipment in the cells, including toys, for infants. The large common area included a kitchenette, a laundry and a play area. A shortcoming, readily acknowledged by the staff, was a strong echo effect. The Committee invites the Estonian authorities to address this problem (for example, by installing appropriate sound absorption panels).***

We thank you for your comment and confirm that if there are mothers with children in a detention facility, taking into account the welfare and needs of the children is a priority issue for us. The prison service is aware of the referred problem and has planned appropriate solutions. We consider it necessary to point out that in the selection and installation of panels it is important to consider security so that the panels cannot be used to hide prohibited objects.

b. Regime

- ***62. The CPT calls 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 in pre-trial custody. 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. Regarding, in particular, remand prisoners, the Committee reiterates its long-standing recommendation that periods of association with prisoners from other cells should be introduced for some hours per day, by amending, as necessary, the relevant regulatory framework. As long as prisoners are held in conditions amounting to solitary confinement, they should be offered at least two hours of meaningful human contact a day. It is recalled, furthermore, that the longer the period for which prisoners are detained,***

the more developed should be the regime offered to them.

We agree that meaningful activities during incarceration is extremely important for the re-socialization of prisoners, and we will continue to make efforts to expand opportunities for this purpose. Shorter times of serving a sentence/penalty, different motivation and skill levels, and job opportunities set their own limitations. We are constantly adjusting our activities.

Among the innovations of this year, we can highlight the creation of the Prison Enterprise Centre, which will reorganize the employment model of prisoners. The emphasis will be on the involvement of the private and public sectors, through which we can offer varied employment in the light of the changing profile of prisoners and the shortening of sentence times, which will support their law-abiding path to freedom. Prisoners will continue to be able to work in a variety of fields demanding more complex skills, such as the wood and metal industries, but there is an increasing opportunity for simpler jobs such as assembly or labelling. Simpler jobs make it possible to involve more prisoners, since the work does not require such long training. Sewing and laundry service is a good opportunity to involve external partners and increase the volume of work. As a change, it can also be pointed out that where in the past only women were engaged in sewing, with the increase in volumes we have now included male prisoners in the sewing workshop. We are also piloting completely new directions, such as planting forests with prisoners of Tartu Open Prison, which could also be a real opportunity to earn a living after release.

With regard to arrested persons, we clarify that as of 1 October 2024, amendments to the Imprisonment Act will take effect, the provisions of which for the opening of arrested persons allow those in pre-trial custody to be outside the cell in the living unit at the time prescribed for this purpose in the prison agenda, as well as to participate in various occupations more than before. The exception applies only to those in pre-trial custody who are subject to additional restrictions imposed by the Prosecutor's Office or the court. Pursuant to § 102 of the Imprisonment Act, additional restrictions may be applied to a person in custody or a suspect or an accused who is imprisoned or serving detention on the basis of an order of the Prosecutor's Office or court ruling on the bases of and pursuant to the procedure provided for in the Code of Criminal Procedure. This means that those persons in respect of whom an order to implement additional restrictions has been made by the Prosecutor's Office or the court will remain in a locked cell.

- ***63. [---] The CPT recommends that steps be taken to ensure that all young prisoners are offered the possibility of daily outdoor exercise of at least two hours. Furthermore, the Committee recommends that young prisoners be enabled to spend at least eight hours a day outside their cells and participate in programmes of purposeful and structured activities tailored to their individual needs and intended to fulfil the functions of education, personal and social development, vocational training, rehabilitation and preparation for release in the light of Recommendation Rec (2008) 11 of the Committee of Ministers on the European Rules for juvenile offenders subject to sanctions or measures. The CPT would also like to receive the observations by the Estonian authorities on the treatment of young prisoners, as well as detailed information on the authorities' plans to expand the programme of activities for young offenders.***

We consider it important to note that the number of minors and young people in prisons has decreased significantly over the years as a result of purposeful and targeted work. As of April 2024, 19 young prisoners (ie aged 18-21) are serving sentences in closed prisons. There are no underage prisoners in the closed prison at the moment. One underage prisoner is serving their sentence in open prison.

On April 2 of this year, the agenda of the Viru Vangla Youth Unit was changed and the living units are open daily for 9 hours and 30 minutes. Also, from February this year, the intermediate bars will be open and youths will be able to move freely between the living cells and the day room. In walking boxes, youths can stay for 2 hours, sometimes even longer. In the walking boxes there is a basketball ring, a basketball and football. In addition, it is possible to perform bodyweight exercises on the bars in the walking boxes. In the near future, the doors of the walking boxes will be kept open, and young

people will be able to stay there at any time convenient for them. At the moment, the situation is such that most prisoners do not want stay in the box for two hours, and the time of staying is rather at one hour. Staying in a walking box also depends a lot on weather conditions.

Recent training has led to a great deal of substantive development in working with young people. The guards have received communication training based on the principles of motivational interviewing, and in addition, all officials are aware of dynamic security and apply this knowledge in communication with young people. At the same time, information and training regarding trauma-centric approach have made both the environment and the quality of communication much more aware and understanding. The application of the principles of restorative justice in different situations is also in constant development, which makes the existing environment less conflictive for everyone and teaches new skills that the young person can use later upon release.

We reviewed the treatment policies of the Youth Department and focused on the following principles:

- When a young person arrives in prison, we try to transfer them to an open prison as soon as possible, so that they can serve their imprisonment in an environment more similar to that of ordinary society and are involved in family and activities in a free society (eg going to school). In addition, we will consider ways for young people to start serving their sentences immediately in open prison.
- We are developing more meaningful family-centred approaches so that young people away from family have regular physical contact and communication with their close ones, both in prison and as regular trips home. If necessary, we try to offer all parties, not just the youths, various interventions to restore and improve relationships.
- We are preparing to implement the EQUIP programme under which young people themselves play a major role through discussion rounds.
- We are also working on adding another level to the motivation system, which will focus on practicing new conduct and analysing it as part of a daily meeting with one's case manager. The process also involves making a summary of the whole day and planning for the next day.
- For each young person, an activity plan for the week is created, which ensures that all youths are busy with meaningful and also interesting and developing activities. Additional activities listed above will become part of this plan.
- Violations or conflicts are responded to through restorative approaches, and punishment is an extreme measure. In particular, the young person is taught the skills to analyse the consequences of their actions, learn from it and take responsibility.

2.2.4. Healthcare services

- **64. At the time of the 2023 visit, prison health 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 Health Insurance Fund as of 1 July 2024. The delegation was informed that concrete measures to operationalise this decision were being discussed in a working group. [---] 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 professionals (eg improved working conditions, increased salary scale, etc) and the establishing of good communication channels between healthcare and custodial professionals. The CPT would like to receive detailed information on the implementation of this transfer of responsibility in the Estonian prison context, including on the measures envisaged to ensure an adequate standard of healthcare services under the new arrangement.**

Pursuant to the amendments to §§ 49-53 of the Imprisonment Act (composition XIV of the Riigikogu 699 SE) that take effect on 1 July 2024, the provision of health services in prisons will be organized by the Ministry of Social Affairs in cooperation with the Health Insurance Fund. We see this as an important step forward in the reorganisation of future prison healthcare.

In prisons, a regional health service provider, ie a hospital with a financing agreement with the Health Insurance Fund, will start operating separately. The financing agreement sets out the conditions for the provision of healthcare services. The Health Insurance Fund has also developed a cost model on the basis of which the service is financed. Thus, from 1 July 2024, the Ministry of Justice and prisons will no longer be engaged in the provision of healthcare services, but will ensure the necessary conditions so that healthcare institutions can provide healthcare services to prisoners on site in prison and, if necessary, outside of prison.

The aim of the proposed amendment is to make the organisation and administration of health service in prisons more efficient from the point of view of the state as a whole. In the future, healthcare for persons held in prison will be organised and financed in a similar way to conventional health care by the Ministry of Social Affairs, and duplicate activities to organize supervision and financing will cease. As a result of the change, the Ministry of Justice will no longer manage or organise a separate healthcare system in prisons, and the needs of people in custodial institutions have been taken into account as part of the state's health policy by the Ministry of Social Affairs, which has the knowledge base and competence necessary for this purpose. The principle that existing and expected healthcare services and medicinal products are uniformly available both in prison and in healthcare institutions is maintained. The budget for healthcare services is managed on a uniform basis, and additional financing needs, such as possible additional costs for information technology developments or medicinal products, are dealt with centrally in cooperation between the Ministry of Social Affairs and the Health Insurance Fund, also involving health care providers and interest organisations. The training and labour needs of healthcare professionals are dealt with uniformly within the area of government of the Ministry of Social Affairs.

The implementing legislation governing the transition of health service provision is pending approval by the Government of the Republic of Estonia at the time of preparation of this response.

The intention to develop the transfer of the provision of health services that has entered into force can be examined on the Bills information system (EIS)³, and the draft and explanatory memorandum can be examined on the website of the Riigikogu.⁴

- **65. Healthcare professional levels were adequate in theory, but were adversely affected by generally high vacancy rates, with the exception of Tartu. At the time of the visit, Tallinn Prison benefited from the equivalent of 21.9 full-time positions (FTE) for healthcare professionals out of 37.3 theoretical posts (i.e. a 41% vacancy rate), Tartu Prison had 31.3 FTE filled out of 37 posts (a 15% vacancy rate) and Viru Prison had 22.1 FTE filled out of 34.5 posts (a 36% vacancy rate). [---] The aforementioned staff shortages had an inevitable negative impact on prisoners' access to medical care, in particular specialist care. For example, a person held at Tallinn Prison received treatment for hepatitis C infection six months after the diagnosis, and only following many requests, some of which filed by his lawyer. It appeared that several other prisoners at Tallinn Prison were experiencing delays in accessing specialised treatments. The CPT would welcome the Estonian authorities' observations on this subject. More generally, the**

³ Amendments to the Imprisonment Act, the Health Insurance Act and the Health Services Organisation Act (merging prison medicine with the mainstream health care system). Available at:<https://eelnoud.valitsus.ee/main/mount/docList/50a26616-11fe-4a24-92f7-dab459eb7cf7>

⁴ Law on Amendment of the Health Services Organisation Act and Other Related Acts 699 SE. Available at:<https://www.riigikogu.ee/tegevus/eelnoud/eelnou/f276271a-1a38-4b1a-b0cd-cae1f59df8d5/tervishoiuteenuste-korraldamise-seaduse-muutmise-ja-sellega-seonduvalt-teiste-seaduste-muutmise-seadus>

Committee recommends that efforts be made to increase healthcare professional levels in the prisons visited, especially at Tallinn and Viru Prisons, the objective being to fill all the vacant posts.

Thank you for bringing this to our attention and we confirm that the recruitment of healthcare professionals is very important to us as well. We clarify again that at present all Estonian prisons are guaranteed treatment of hepatitis C. Treatment is started immediately after the diagnosis is made. The above reference to the problem in Tallinn Prison was temporary, as the decision on additional treatment funding was delayed. The problem described concerned a few individual prisoners. After the transfer of the provision of health services, the treatment of hepatitis C is ensured by a healthcare institution.

- **68. [---] The CPT recommends that the Estonian authorities take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) so that the prison medical services at the establishments visited fully play their role in the system for preventing ill-treatment, ensuring that:**

- a. the record drawn up after the medical examination of a person held in prison contains:**
 - i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), ii) a full account of objective medical findings based on a thorough examination, and iii) the healthcare professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;**
- b. any traumatic injuries observed in the course of medical examination are photographed in detail and the photographs are kept, together with the "body charts", in the person's individual medical file;**
- c. the results of every examination, including the above-mentioned statements and the healthcare professional's conclusions, are made available to the person concerned and, upon their request, to their lawyer;**
- d. traumatic injury reports relating to injuries likely to have been caused by ill-treatment (even in the absence of statements) are automatically forwarded to the independent body empowered to conduct investigations, including criminal investigations, into the matter;**
- e. a special register of all traumatic injuries is introduced and properly kept at all prison establishments.**

Thank you for your observations. Based on the reasoning set out in paragraph 64 of this document, we clarify that pursuant to the amendments to §§ 49-53 of the Imprisonment Act (composition XIV of the Riigikogu 699 SE) that take effect on 1 July 2024, the provision of health services in prisons will be organised by the Ministry of Social Affairs in cooperation with the Health Insurance Fund. Thus, from 1 July 2024, the Ministry of Justice and prisons will no longer be engaged in the provision of healthcare services, but will ensure the necessary conditions so that healthcare institutions can provide healthcare services to prisoners on site in prison and, if necessary, outside of prison.

In response to the above remarks, we add that at the time of preparing the answer, the medical department that is part of the prison confirms that the report prepared after the medical examination of the person in prison contains what was referred to by you. The medical department of the prison also confirms that any traumatic injuries observed in the course of medical examination are photographed in detail by a prison officer and the photographs are kept, together with the body charts in the person's individual medical file. The prison's medical department can also confirm that the results of each examination, including the aforementioned statements and the conclusions of the

healthcare professional, are made available to the person concerned and, at their request, to their lawyer, and that reports of traumatic injuries that are likely caused by ill-treatment (even in the absence of statements) are transmitted automatically to an independent body authorised to conduct an investigation of the case, including a criminal investigation. We also add that the prison medical department has not introduced a special registry for all traumatic injuries. We also do not consider it inevitably necessary.

In view of the above, we will also forward your observations to the Ministry of Social Affairs and the Health Insurance Fund.

- **69. As far as the delegation could ascertain, the medical files were properly kept in the prisons visited. By contrast, the confidentiality of medical consultations was not always respected, as in some cases the door of the medical room was not closed when prisoners were examined by a healthcare professional, with a guard remaining within hearing range. When consultations concerned prisoners confined to a punishment cell or locked up cell, they often occurred through the cell door hatch or in the doorway. Furthermore, requests for medical appointments were usually made in writing and given to prison officers. In the CPT's view, in order to enhance the confidentiality of such requests, it would be desirable to introduce more appropriate procedures, for instance by arranging daily rounds of nursing staff in all detention areas to collect requests for medical consultations or by introducing dedicated locked letterboxes for requests for medical consultations to which only members of the healthcare professionals would have access. 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. The practice of holding medical consultations through the food hatch or in the doorway should be discontinued immediately.**

In order to ensure the confidentiality of an appointment at the healthcare professional, the prison service officer is generally not present in the office during the appointment. A prison service officer may be present in certain situations if it is necessary to ensure the safety of the medical staff. A medical professional may request for a prison service officer to be present for the duration of the appointment if the medical professional feels threatened. Also, in a case where the prison has a reasonable suspicion that the prisoner who has an appointment might be a security threat. The appointments of prisoners committed to a punishment cell takes place under the same conditions as for other prisoners. In these situations, however, it is often necessary for security reasons to have the appointment through a food trap or an open compartment door, since the risk of attack is so significantly lower. If in order to provide medical care it is necessary to enter the cell or deliver a person to the medical department, the corresponding measure will be taken.

We would also like to inform you that we will also forward your recommendations to the Ministry of Social Affairs and the Health Insurance Fund.

- **70. As had been the case in the past, the delegation observed in the three prisons visited that medication was prepared by nurses and distributed by prison officers (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 professionals. The CPT recommends that steps be taken to ensure that medication is always distributed by healthcare professionals.**

Thank you for the recommendation, but we still consider the established practice to be reasonable. We emphasize that medical confidentiality is guaranteed in the distribution of medication, because the prison officers distributing the medication do not know what medication the prisoner receives and for what purpose. Medication is delivered to prisoners in a pre-assembled medication box, and prison staff only check that prisoners are taking the medication prescribed for them. The medication

prescribed to the prisoner, information on their administration and effects are explained to the prisoner by healthcare professionals during a medical consultation. To ensure safety, psychiatric medication are distributed exclusively by healthcare professionals.

The distribution of medication by someone other than a healthcare professional is not so much an important issue in the context of incarceration in terms of a person's right to privacy, as prison officers are not aware of a person's diagnosis and their treatment. Pursuant to subsection 2 of § 52 of the Imprisonment Act currently in force and entering into force on 1 July 2024 the medical officers of prisons are required to supervise the state of prisoners' health on a constant basis, treat them in prison to the extent possible and, if necessary, refer them to treatment at relevant providers of specialised medical care, and perform other functions assigned to medical officers.

Since prison staff and persons in direct contact with prisoners are obliged to monitor all changes in the state of health of prisoners and inform the healthcare professional, the involvement of prison staff in this case cannot be completely ruled out. The prison officer must be aware of the circumstances that must be guaranteed in order to preserve the health of the prisoners. For example, if a person needs a wheelchair at certain times, the prison guard must be aware of such precept and allow the use of the wheelchair for the prisoner.

- **71. As for staff in charge of mental healthcare, the data provided by the Estonian authorities and the prison management revealed that understaffing remained a serious issue in the three penitentiary establishments visited. At the time of the visit, Tallinn Prison employed two part-time psychiatrists (0.7 FTE combined), thus leaving 1.3 FTE psychiatrists' posts unfilled. It was positive, however, that a full-time psychiatric nurse had been recruited. At the Psychiatric Unit of Tartu Prison, the number of nurses was adequate (4 FTE), but out of the 3.5 FTE psychiatrists' posts, only 1.7 FTE were filled, which was clearly insufficient. The staffing situation was problematic also at Viru Prison, in which only less than 10% of the two psychiatrists' posts were occupied – what roughly translated into a half-day presence per week – and the two posts for clinical psychologist were vacant. That said, a psychiatrist was specifically contracted to take care of the young offenders held at Viru Prison, even though the consultations (generally on a monthly basis) sometimes took place via video link. The CPT trusts that the above-mentioned vacant posts will be filled in due time. The delegation received numerous complaints from prisoners of all the establishments visited regarding difficulties and delays in obtaining access to mental healthcare. Many prisoners (especially but not only at Viru Prison) complained that psychiatric consultations sometimes took place via video link.**

We have recognized the concerns associated with the employment of psychiatrists and identified opportunities to fill the positions, including adjusting their salaries based on the comparison of the salary levels of psychiatrists with those of other competitive employers. The main difficulty in finding them is still the level of salary compared to other equivalent salaries elsewhere and the general shortage of healthcare professionals in the Estonian labour market.

As of 1 July 2024, the psychiatrist service will be organised by the health services provider, including finding staff, and hopefully then the health service provider will have more flexible options to find suitable workers from their system.

- **72. The conditions at the Psychiatric Unit of Tartu Prison were the same as in 2017. With a capacity of 18 beds allocated among ten cells, at the time of the visit the Unit was accommodating five patients, two of whom (as far as the delegation could ascertain) were undergoing forensic psychiatric assessment whilst the others had developed a mental illness during imprisonment. The Unit was usually staffed by two prison officers and a nursing presence was ensured around the clock. [---] The CPT reiterates its recommendation that steps be taken to ensure that patients accommodated at the Psychiatric Unit of Tartu Prison (even for a relatively short time) benefit from a range of**

recreational and therapeutic out-of-cell activities (in addition to pharmacological treatment) and are, as far as possible, allowed to associate with other patients (if necessary under supervision).

The Psychiatric Unit of Tartu Prison continues to be a closed department due to the regulation of the internal rules in force.

Tartu Prison employs an activity supervisor who deals mainly with persons with cognitive impairments. To prisoners in the Psychiatric Unit, we also offer pharmacotherapy and also the possibility of psychotherapy by a clinical psychologist. We offer psychotherapy on an individual basis, not as group therapy. In addition, Tartu Prison provides prisoners in the Psychiatric Unit with the chaplain service, which is actively used by prisoners. There is also a mental health nurse working in Tartu Prison who advises prisoners in the unit within the limits of the nurse's competence.

We would like to point out here that in 2018 a walking area was built in the outdoor area of Tartu Prison, which includes, among other things, sports equipment.

- **73. [---] In sum, the delegation gained once again the impression that the prison system in Estonia had yet to develop a comprehensive policy to effectively combat the problem of substance use by prisoners. In this context, the Committee must reiterate its view that the management of prisoners with a substance use problem must be varied – eliminating the supply of drugs into prisons, dealing with drug use through identifying and engaging users, providing them with treatment options and ensuring that there is appropriate through care, developing standards, monitoring and research on drug issues, and the provision of staff training and development – and linked to a proper national prevention policy. This policy should also highlight the risks of HIV or hepatitis B/C infection through injecting drugs and address methods of transmission and means of protection. Regarding the opioid agonist treatment in operation at Tartu Prison, the dose of methadone prescribed as maintenance should be that required to stabilise a prisoner's drug use to the extent that the prisoner injects or uses opiates less frequently and remains in contact with addiction services. The CPT reiterates its recommendation that the Estonian authorities develop and implement a comprehensive policy for the provision of assistance to prisoners with substance use problems (as part of a wider national strategy) including harm reduction measures and rehabilitation programmes. It also recommends that opioid agonist treatment be made accessible also to prisoners who are not involved in a rehabilitation programme in the community and that, for all prisoners on a methadone maintenance programme, the dosage be subject to regular supervision and review by the doctor in charge.**

Thank you for your observation and we confirm that the fight against substance use is under a special attention of the prison service. Our monitoring is effective and we are constantly developing a range of measures to support a substance-free lifestyle both in and out of prison.

We note that methadone treatment of prisoners in prison is always carried out under the supervision of a healthcare professional, and doses are regularly adjusted by the attending physician as needed.

We explain that in Tallinn Prison there is a unit specialized in working with addictive disorders caused by the use of psychoactive substances, where we offer prisoners various social programmes dealing with addiction, the aim of which is to transform the thought and behaviour patterns of addictive behaviour. In addition, we provide prisoners with Narcotics Anonymous (NA) meetings and other support groups (Relapse Prevention, 12-step programmes) that allow prisoners to discuss various topics that have affected their addictive behaviour and allow them to express their experiences and thoughts in the group. In addition to social programmes, individual counselling and support groups, prisoners have the opportunity to participate in various recreational activities.

We are also pointing out that the prison service works on a daily basis to prevent prohibited substances from entering prison. The possible use of narcotic or psychotropic substances by prisoners is checked by rapid tests. Also, in prisons, wastewater samples are regularly taken to assess

the content of prohibited substances in them. The results are analysed and an attempt is made to draw conclusions on what causes the findings and what can be done to improve the situation.

In practice, the detection of prohibited substances is becoming increasingly difficult because the possibilities for searching the persons coming to the meeting are more limited, there are more unseparated meetings and there are no immediately appropriate means to identify new prohibited substances entering the market.

- **74. As already mentioned above (see paragraph 8), at the Medical Unit of Viru Prison the delegation met a prisoner who had recently suffered from a stroke. Being unable to either stand or sit, he was confined to his bed, had acute difficulties to talk and was incontinent. He was reliant on another prisoner to use the toilet, take a shower and even eat (liquid) food. In addition, he had no access to specialised care provided in the community (physical therapy, speech therapy, etc.). While the delegation was informed that proceedings for release on health grounds (compassionate release) were ongoing before the Medical Commission, it considered that this unacceptable state of affairs could not be allowed to continue and made an immediate observation, requesting that the Estonian authorities take immediate steps to ensure that the prisoner in question be held in conditions which enable him to uphold his dignity. By letter of 13 July 2023, the Estonian authorities informed the CPT that, unfortunately, the prisoner concerned had died a few days before the date set by the court for his release on health grounds. The authorities specified that, during the time spent in prison, he had received proper medical care and personal assistance and that, accordingly, he had been held in dignified conditions. Whilst the CPT has no reason to doubt that the treatment received in prison by the prisoner in question was the best possible under the circumstances, it considers it very important that proceedings for compassionate release are conducted as speedily as possible and take into account the seriousness of the prisoner's medical condition. The Committee invites the Estonian authorities to make every reasonable effort to ensure that this is always the case.**

Thank you for your observation and we are making every effort now and in the future to ensure that the procedure for release due to health conditions takes place as soon as possible and takes into account the seriousness of the prisoner's state of health. We explain that according to the legal regulation in force in Estonia, ie on the grounds arising from § 79 of the Penal Code, it is possible to release a person from bearing a punishment due to an terminal illness. It follows from subsection 1 of the said section that If a person suffers from a terminal illness, the court may release him or her from bearing the punishment where the court shall take into consideration the circumstances relating to the criminal offence committed, the personality of the offender and the nature of the illness. The exact grounds for release from bearing the punishment arise from the content of the said section. Thus, the prison submits a corresponding application to the court, with the latter deciding on release.

- ***75. According to the data presented to the delegation by the Estonian authorities, there have been three suicides in Estonian prisons in 2022 and five in 2021. Two suicide prevention reports were adopted, one concerning specifically newly arrived prisoners, the other regarding the general prison population. Healthcare professionals in the prisons visited declared that these protocols were being followed in practice. The CPT welcomes this and requests the Estonian authorities to provide information on whether there exist plans to evaluate the implementation of the two aforementioned suicide prevention protocols.***

There are no plans to conduct a separate assessment of the implementation of suicide prevention guidelines this year. The guidelines were last updated in September 2023. We consider it important to clarify that after each case of suicide, a thorough analysis is also carried out as to whether the guidelines were followed and corrective actions are implemented if necessary.

2.2.5. Other issues

a. Prison staff

- **76. Prison staff shortages were conspicuous across all units in the prisons visited, especially at Tallinn and Viru Prisons, in which the overall vacancy rate of prison officers was around 30%. More specifically, between 24% and 32% of the theoretical posts for custodial staff were vacant at those establishments, the staffing situation being relatively better at Tartu Prison. [---] In the light of the above remarks, the CPT recommends that the Estonian authorities take resolute steps to recruit additional custodial staff at Tallinn, Tartu and Viru Prisons. Further, measures must be taken to ensure that the number of prison officers employed is sufficient at all times, including at night and on weekends.**

Thank you for bringing this to our attention and we confirm that ensuring the necessary number of employees is our top priority.

We have made and will continue to make efforts to fill the positions, including reviewing the need for optimal staffing, including adjusting the staff based on the change (decrease) in the number of prisoners as of 1 January 2024. As at 18 April 2024, 270 of the 322 positions of prison officers at Tallinn Prison have been filled with employees at full-time equivalency, in Viru prison there are 240 employees at full-time equivalency out of 273 prison officer positions, and in Tartu prison there are 199 employees at full-time equivalency out of 226. These figures show that the situation has improved compared to previous data.

We are also reviewing the work organisation of supervision on the night shift in order to be able to carry out the tasks set with the optimal number of employees. We are also implementing a variety of IT solutions so that officers have more time and opportunities to interact directly with prisoners.

- **77. As for staff training, the CPT notes as a positive fact the existence of a comprehensive initial training programme for newly recruited prison officers, including practical on-site workshops for prison officer students of the the Estonian Academy of Security Sciences. However, ongoing training and professional support for existing prison staff was not sufficiently developed. The Committee recommends that further efforts be made to develop ongoing (in-service) training and professional support for prison staff; in this context, reference is also made to the recommendation in paragraph 49 above.**

The prison service has a functioning system of follow-up training, which provides follow-up training to various occupational groups, in based of the specificities of the work, in particular the development and support of officials who have direct contact with prisoners and the provision of further training to develop their professional and communication skills.

Starting in 2024, all prison officers will have access to psychological counselling and supervision services, with the aim of supporting the mental health and professional development of the officials. See also the response to paragraph 49.

b. Contact with the outside world

- **78. The legal provisions governing prisoners' contact with the outside world have remained in large part unchanged since the CPT's last visit. Convicted and in pre-trial custody prisoners were entitled to receive at least one short-term supervised visit per month of up to three hours, while sentenced prisoners were also entitled to receive one**

unsupervised long-term visit of 24 hours (with a possible extension of up to three days in 'justified cases') at least once every six months. Moreover, in addition to the right to correspondence, all prisoners were allowed to have access to the telephone, sentenced prisoners at least once a week and prisoners in pre-trial custody 'upon request'. [---] Regarding the current visiting entitlement, the CPT wishes to stress once again that it is totally insufficient. The Committee must reiterate that all prisoners (whether convicted or in pre-trial custody), 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. The Committee calls upon the Estonian authorities to amend the relevant legislative provisions accordingly.

The prison service has a duty to facilitate the prisoners' contact with their families, relatives and other close people in order to prevent the breaking of the prisoners' social links. To this end, prisoners are permitted to receive at least one supervised visit per month from their family members and other people with regard to whose reputation the prison service has no reasoned doubts.⁵ In particular, long-term meetings are provided to maintain family relationships. The regulation does not limit the number of visits. The minimum is established to ensure that each prisoner can attend at least one visit, even if the prison is full and all visiting rooms are fully booked. We stress that prisons, if possible, already allow more visits than is prescribed by legislation – and that minors and young prisoners are also allowed more visits than adults. See also response to paragraph 63. We are also about to implement the possibility of video meetings with close persons, for which the legal bases were established this year.

- ***79. The CPT has repeatedly criticised the fact that short-term visits – including those for juvenile prisoners – took place, as a general rule, under closed conditions (ie with a glass partition). During the 2023 visit, the delegation was pleased to note that, owing to a recent amendment of the relevant regulations, the principle in force was now that short-term visits with family members could take place without a glass partition ('open visits'). That said, it remained the case that, in practice, closed visits were the rule and open visits the exception in the establishment visited, with the laudable exception of Tartu Prison. The Committee acknowledges that, in certain, cases, it may be justified, for security-related reasons, to prevent physical contact between prisoners and their visitors. However, open visits should be the rule and closed visits the exception, for all categories of prisoners. The CPT calls upon the Estonian authorities to review the visiting arrangements in all prisons accordingly, based on a careful risk assessment.***

Compared to the previous CPT visit, the legal regulation of short-term visits has become even more flexible. With the amendment made to the internal rules of the prison, which entered into force in 2022, short-term visits without separation are additionally allowed for the spouse, registered partner, father, mother, grandfather, grandmother, child, grandchild, adoptive parent, adoptee, step or foster parent, step or foster child, brother or sister.

Short-term visits without separation are allowed for security reasons under essentially the same conditions as long-term visits. When arranging such visits, the prison must ensure that the visit contributes to achieving the objective of imprisonment. It is also necessary to assess the risk of a short-term visit to security from the point of view of the delivery of heavily prohibited items and substances to the prison territory. In order to ensure the overall security of the prison, the prison must be able to determine whether short-term visits without separation are used in a targeted manner and in accordance with current legal regulation. We emphasize that the prisoner's request is always resolved on a case-by-case basis, taking into account specific circumstances, and in the absence of excluding circumstances, visits without separation are allowed. If a short-term visit without separation

⁵ Under the Imprisonment Act, prisoners are permitted to receive at least one supervised visit per month from their family members and other people with regard to whose reputation the prison service has no reasoned doubts.

is not allowed, then a visit with separation by partition (glass wall) is considered.

To strengthen and maintain family ties, prisons organise various family events that allow for direct communication. Such annual events include family days, the celebration of Mother's Day and Father's Day, graduation from general education school and vocational schools. At these events, visitors and prisoners can interact without being separated.

All prisons have improved facilities for having visits without separation, including changes to visitation procedure. Various rooms have been repurposed specifically to increase the ability to organize visits without separation. The prison service will continue its efforts to encourage prisoner out-of-prison communication, which is an important part of meeting the objectives of imprisonment. There are plans to create additional spaces and change visiting schedules to allow for more visitation times.

We are also about to implement the possibility of video meetings with close persons, for which the legal bases were established this year.

- **80. At Viru Prison, some of the convicted prisoners interviewed by the delegation alleged that incoming correspondence addressed to them was read by staff (and that, occasionally, staff made derogatory comments on the content of these letters, including replies to prisoners' complaints or motions to external institutions). The CPT acknowledges that there might well be cases in which prisoners' incoming correspondence should be checked to verify that no prohibited items are introduced into the prison, and it is a good practice that such checks are performed in the presence of the prisoner concerned. However, such security measures by staff should not involve reading on a regular basis – let alone commenting on the content of – convicted persons' correspondence, unless specific restrictions are imposed on a particular prisoner in accordance with the law and based on an individualised risk assessment. The Committee recommends that the Estonian authorities carry out a review of the practice with respect to the inspection of incoming correspondence, in the light of the above remarks.**

Correspondence is one of the most common ways to deliver prohibited items and substances into prison. Pursuant to § 29 of the Imprisonment Act, a prison service officer shall open letters sent by or to a prisoner in the presence of the prisoner and shall confiscate any items the holding of which in a prison is prohibited by the internal rules of the prison. In the routine inspection of letters, the contents of letters are not read but checked for prohibited items and substances. The content of correspondence is checked only in the framework of the surveillance operation provided for in Chapter 3¹ of the Code of Criminal Procedure.

It is prohibited to check correspondence with state agencies, local governments and the officials thereof, representatives who are advocates, the Prosecutor's Office, court, the Chancellor of Justice, consular officers of prisoner's country of nationality, and the Ministry of Justice.

c. Disciplinary solitary confinement

- **85. 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 can only welcome this long overdue legal change. The CPT calls upon the Estonian authorities to adopt the aforementioned amendment concerning adult prisoners without further delay. The Committee to be kept informed of the progress of the legislative process and the details of the adopted text. [---] The Committee must also stress 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. Consequently, the Committee recommends that this sanction be abolished in law (and pending that, no longer applied in practice) in respect of juvenile prisoners.

Disciplinary penalties are set out in § 63 of the Imprisonment Act. The placement of an adult prisoner in a punishment cell is regulated in clause 4 of subsection 1 of § 63 of the Imprisonment Act, and the maximum duration of placement of a young prisoner in a punishment cell is regulated in subsection 2 of the same section. As a result of the amendment, the figure ‘45’ in clause 4 of subsection 1 was replaced by ‘14’ and the figure ‘20’ in subsection 2 the was replaced by ‘3’. Thus, the length of a single penalty to be served in a punishment cell may not exceed 14 days for adults and 3 days for underaged prisoners.

Bill 227 SE containing the described amendment was adopted on 6 March 2024 and entered into force⁶ on 1 April 2024.

- ***86. From the consultation of disciplinary files and interviews with prisoners and staff, it transpired that, as had been the case during previous visits, disciplinary procedures were usually carried out in accordance with the relevant rules. However, while prisoners had a right to submit written observations before a decision was adopted, the regulations did not set out a requirement that they be heard in person by the decision-making authority and that they be entitled to receive legal assistance. The CPT recommends that adequate steps be taken to fill these lacunae. [---]The Committee invites the Estonian authorities to consider issuing (on the central level of the prison service) guidelines for authorised prison staff on how to apply disciplinary penalties, with standard ranges of sanctions for certain types of disciplinary offences. Authorised prison staff should be provided with appropriate training in the application of these guidelines. Further, the CPT reiterates its recommendation that the relevant provisions be amended to ensure that only the prison Director or (in the Director’s absence) another senior prison officer representing the Director be authorised to impose the sanction of disciplinary solitary confinement.***

The Ministry of Justice has also referred to the need to amend the regulation of disciplinary penalties of prisoners in an earlier response.

Similar to the response to the 2017 visit report, we find that the prison Director is the head at the administrative level and daily work with prisoners is within the competence of the units. The officials conducting disciplinary proceedings have acquired the necessary training to enable the disciplinary proceedings to be carried out properly. When choosing a disciplinary penalty, the proceedings authority must take into account the purpose of the execution of the imprisonment and other important factors, such as the correspondence of the punishment to the gravity of the offence and the circumstances of the commission of the offence, the circumstances aggravating or mitigating the liability, the previous conduct of the prisoner, the existence of disciplinary penalties imposed on them, etc. The contact person assigned to the prisoner is aware of the circumstances surrounding the prisoner and knows them best, which means that the contact person is the right person to carry out the proceedings.

- ***87. It is noteworthy that, unlike during the CPT’s previous visits, the practice in the three***

⁶ Imprisonment Act and Other Acts Amendment Act (Modernisation of the Imprisonment Act and Adoption of Digital Solutions) 227 SE - <https://www.riigikogu.ee/tegevus/eelnoud/eelnou/ab2a14ca-1c1f-4ab4-8f42-09ef69cf194e/vangistusseaduse-ja-teiste-seaduste-muutmise-seadus-vangistusseaduse-kaasajastamine-ja-digilahenduste-kasutusele-votmine/>

establishments visited was that (in most cases) prisoners could serve the sanction of disciplinary solitary confinement in their own (standard) cells; this is indeed a positive development. [---] Access to natural light and artificial lighting were sufficient but ventilation was poor in all of the disciplinary cells, particularly so in cells Nos 1166 and 1191. The Committee recommends that steps be taken to address this deficiency.

We would like to inform you that the ventilation system in the S-building of Tartu Prison has been replaced and modernized in accordance with the current standards. The ventilation system has also been replaced in the Tartu Prison E-building, where works were completed in the summer of 2023. These are modern ventilation systems with a heat exchanger. Since repair works are underway in Tartu Prison, the plan is to clean the ventilation pipes after the completion of the works in order to ensure high-quality functioning of the systems.

- **88. As for the regime, prisoners placed in disciplinary solitary confinement were allowed to take their outdoor exercise for one hour each day. [---] The Committee wishes to reiterate its view that restrictions on family contacts in the context of disciplinary procedures should be imposed only where the criminal offence relates to such contact; further, such restrictions should never amount to a total prohibition of contact. The CPT recommends that steps be taken, including by amending the relevant rules, to ensure that disciplinary penalty of prisoners does not include a total prohibition of family contacts, and that any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contact and should never amount to a total prohibition of contact.**

On 1 April 2024, an amendment to the Imprisonment Act entered into force, according to which the prison service allows short-term and long-term visits of family members on general terms for a prisoner placed in a punishment cell to serve a disciplinary penalty. Thus, the prison service has discretion to decide on visits of prisoners serving a penalty in a punishment cell, insofar as the amendment allows visits to be had on the condition that the prisoner has not been prohibited from visits under § subsection 4 of § 65¹ of the Imprisonment Act (The prison service may partially or fully restrict short-term and long-term visits to a prisoner who is committed to a punishment cell).

- **89. [---]The Committee must stress once again that doctors and nurses working in prison should be very attentive to the situation of prisoners placed in disciplinary solitary confinement. Healthcare professionals should immediately be informed of all such placements and should visit the prisoners without delay after placement and thereafter on a daily basis, and provide them with prompt medical assistance and treatment as required. The CPT recommends that the Estonian authorities ensure that the aforementioned precepts are observed in all the prisons visited, especially in the context of the forthcoming transfer of responsibility for prison healthcare services to the Ministry of Health (see paragraph 64 above).**

We clarify that the healthcare professionals at prisons are required to supervise the state of prisoners' health on a constant basis, treat them in prison to the extent possible and, if necessary, refer them to treatment at relevant providers of specialised medical care, and perform other functions assigned to medical officers. Healthcare professionals consider that they need to monitor the state of health of prisoners, notice any changes and respond to them in a timely manner, regardless of what regime the prisoner is currently in. The prisoner is taken care by a number of experts who are in contact with the prisoner on a daily basis.

Both prison psychiatrists, psychologists, clinical psychologists, chaplains, and prison officers constantly monitor the mental health of prisoners and changes in their state of health. A prisoner has the right to contact the medical department at any time with any health complaint. The state of health of the prisoner is monitored consistently and it is unfounded for healthcare professionals to talk to the prisoner every day.

d. segregation in isolated locked cells

- **90. According to Section 69 of the Imprisonment Act, “additional security measures” may be imposed on prisoners who regularly violate the imprisonment rules, pose a threat to other persons or security in the prison, damage their health or are likely to attempt suicide or escape. Additional security measures range from prohibition to wear personal clothing or use personal effects to placement in an isolated locked cell (lukustatud kambrisse paigutamise) and use of means of restraint. These additional security measures are imposed by the head of unit or a prison officer for an indeterminate period of time, that is, until ‘the [aforementioned] circumstances cease to exist’. Senior prison officers told the delegation that placement in segregation pursuant to Section 69 of the Imprisonment Act was subject to monthly review; however, this was merely a practice without any actual legal basis and without any clearly stated written criteria. The Committee recommends that this legal gap be filled.**

The cessation of the application of additional security measures is not regulated in detail in the legislation and is applied until there is no longer a need for it. The frequency of checks on the reasonableness of the application of additional security measures varies from prison to prison and we agree that this needs to be reviewed.

We note that this year the Ministry of Justice will check the purposefulness of applying additional security measures (in particular, placement in an isolated locked cell) in all prisons within the framework of supervisory inspection. As a result of the inspection, problem areas and possible solutions are mapped.

- **92. [---] The Committee considers that there must be a clear distinction, not only in law but also in practice, between segregation pursuant to Section 69 of the Imprisonment Act and disciplinary solitary confinement. In particular, segregation should not be used to replace or circumvent the formal disciplinary procedures. The CPT recommends that steps be taken, including at the legislative level or by establishing operational guidelines, to set out a specific procedure for placement in segregation and to better distinguish between disciplinary solitary confinement and segregation in isolated locked cells, in particular in order to ensure that the latter measure is not de facto used as a disciplinary penalty.**

We agree that isolation and disciplinary solitary confinement under § 69 of the Imprisonment Act must be clearly distinguished both at the legislation level and in practice. This year, the Ministry of Justice will conduct an inspection on the appropriateness of the application of additional security measures in all prisons.

- **98. In the light of the remarks set out in paragraphs 95 to 97 above, the CPT recommends 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; the plan should be formulated and reviewed by a multi-disciplinary team and encompass a programme of purposeful activities;**
 - **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; those interactions should be conducted directly and not through the hatch in the cell door.**

The Committee also recommends that all prisoners segregated pursuant to § 69 of the Imprisonment Act be visited on a daily basis by a member of the prison's healthcare professionals. Whenever a healthcare professional considers that isolation is adversely affecting the detainee's somatic or mental health, the staff concerned should inform the prison's management with a view to suspending the execution of the measure or replacing it with a less restrictive one. With regard to procedural safeguards, reference is made to paragraphs 90 and 92 above.

In response to your observations, we would like to explain that guidelines on the implementation of solitary confinement relief measures have been in use in Estonian prisons since 2018.

The guidelines set out that prisons begin a communication programme on the 11th day of solitary confinement. Before the 11th day, the prisoner can engage in those activities that are permitted in solitary confinement (eg religious and educational literature, newspapers ordered by the prison, familiarization with legislation if necessary, listening to the radio).

The purpose of the communication programme is to provide regular and meaningful communication/activities and human contact to prevent the potential negative effects of solitary confinement and to influence a person's conduct to reduce the commission of new violations.

The implementation of the communication programme begins for the prisoners from the 11th day of their stay in a punishment cell or in a isolated locked cell (§ 69 of the Imprisonment Act). In the case of arrested persons, prisoners who have been in solitary confinement for appointment regime and other reasons (eg Covid patients) for long periods of time, the need for intervention must be assessed on a case-by-case basis.

The programme is implemented by a social worker, psychologist, contact person, chaplain, recreation officer-librarian, probation officer, support person and others. During the communication programme, the programme may be implemented by various officials. Meetings (15 meetings) are held three times a week, lasting 1 hour. Conversation topics need to be meaningful. Topics that are acute for the detainee can also be addressed, topics from social programmes already completed can also be repeated.

If a prisoner participates in activities during solitary confinement (eg school, social programme, national language courses, psychological counselling, etc) during which they can communicate for the purpose, frequency and volume prescribed in the guidelines, the communication programme does not have to be carried out additionally. When the communication programme's topic meetings have ended, but the individual's solitary confinement continues, the meetings will take place more frequently, one hour of conversation four times a week, until the end of the punishment cell penalty or release from the locked cell. In the case of arrested persons and prisoners under appointment regime, the need for the continuation of meetings will be assessed on a case-by-case basis.

During solitary confinement, a prisoner (including one serving a penalty in a punishment cell) may be granted solitary confinement relief measures by the prison. For example: games (puzzles, chess, checkers, etc); sudoku, crossword puzzles; coloured pencils and colouring books/colouring pages; therapy tools (modelling mass, kinetic sand, nature sounds/soothing music for listening, etc); musical instruments; educational literature.

From the 11th day of solitary confinement, both the programme implementer and other persons in contact with the prisoner must monitor the mental health of all prisoners in solitary confinement - ie, whether there have been any changes in the mental health and reasoning of the prisoner that point towards the occurrence of problems. If necessary, the person implementing the programme / another person in contact with the prisoner will ask the prisoner for information about their state of health. If the person implementing the programme / another person in contact with the prisoner has a suspicion or there are obvious signs of deteriorating health, that person must inform the case manager, who will forward the information to the healthcare professional of the unit. The healthcare professional will conduct an initial mental and physical health assessment and, if necessary, refer the prisoner to see a general practitioner, mental health nurse, clinical psychologist or psychiatrist. The medical staff will continue to deal with the prisoner's ailments according to the treatment plan.

If the prisoner refuses the communication programme, the unit must monitor the mental and physical condition of the prisoner at least once a week, until the end of solitary confinement, and intervene if necessary.

If a person already has mental health problems before solitary confinement, they are dealt with on an ongoing basis outside the communication programme. It is also important to point out that isolated prisoners do not stay in complete social isolation and have daily contacts with officials, can participate in various interventions and have the ability to communicate with people close to them both by letter and by telephone.

In response to your observations with regard to a prison healthcare professional making daily visits to all prisoners who have been isolated on the basis of § 69 of the Imprisonment Act, we explain that prisoners are under the supervision of prison health workers during imprisonment. Healthcare professionals monitor the state of health, ie the mental state and emotional stability, of the prisoner. The prisoner may contact a prison officer at any time and/or report that they need psychological assistance. The healthcare professional assesses, among other things, whether the person is capable of serving a penalty in a punishment cell or not. If the penalty to be served in a punishment cell is medically contraindicated, it is possible to discontinue the imposition of the punishment cell penalty on the basis of a medical prescription. At the same time, all prison officers are obliged to monitor the general condition of the prisoners and, if necessary, to inform the healthcare professional if there are any changes in the behaviour or condition of the prisoner.

e. reinforced security unit (“Supermax”)

- ***100. The placement procedure in the ‘Supermax’ had remained unchanged since the CPT’s last visit: the decision was taken by the Head of unit after the initial risk assessment carried out upon admission on the basis of a standardised questionnaire (the so-called ‘10.2.1 table’). Placement decisions were issued in writing and subject to appeal before the administrative court. That said, some of the interviewed prisoners complained that they had restricted access to their files and/or that they had been given no (or hardly any) reasons for their placement in the “Supermax”, which made it difficult for them to challenge the decision.***

The CPT recommends that the placement procedure in the “Supermax” be modified by ensuring that prisoners are, as a rule, provided with information on the reasons of their placement (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security).

Pursuant to clause 7 of subsection 1 of § 5 of the Minister of Justice Regulation No 9 ‘Treatment plan’ of 25 March 2008, a male prisoner is placed in Viru Prison when he requires reinforced security according to the risk assessment.

On 1 February 2024, an amendment to the Treatment plan came into force and § 5 of the Regulation was supplemented by subsection 52, according to which a prisoner is relocated if the need for reinforced security has disappeared according to the risk assessment. Pursuant to § 8 of the Minister of Justice Regulation No 21 ‘Guidelines for the preparation and implementation of the individual treatment plan of a prisoner’ of 14 May 2008, a new risk assessment is conducted if new circumstances affecting the treatment plan of the prisoner appear. The aforementioned circumstances include, in particular, the entry into force of a new judgment of conviction or a decision of a body conducting extra-judicial proceedings against the prisoner; circumstances that may affect the results of the assessment of the criminogenic risks of the prisoner or that make it necessary to modify the planned interventions or to place the prisoner in another prison. The placement of a person in a unit with reinforced security is conditioned by their previous long-term activities and conduct, and permanent changes in this case will not occur in just a few months.

After the entry into force of the above-mentioned amendment to the treatment plan, the prison will be

able to make a decision to relocate the person if the need for reinforced security disappears. We note that the provision has already been implemented in practice and persons have been transferred from Viru Vangla II unit to the prison at their place of residence. We also note that a unit with reinforced security is not very different from a regular unit. Prisoners placed into such units are under stricter supervision (the official is always present in the unit at times when the cells are open) and the possibilities of prisoners' interacting there with prisoners in other units are more limited.

- **101. Further, despite the Committee's recommendation made in the report on the 2017 visit, the frequency of the review of the measure of placement in the 'Supermax' had not been increased and reviews continued to be performed on a yearly basis. Based upon interviews with staff and prisoners, as well as the examination of the relevant documentation, the delegation gained the impression that the review was of a rather formal nature, based on the prisoner's past behaviour rather than his current conduct. Some prisoners told the delegation that they had never been involved in the annual review and most were persuaded that it would be impossible for them to leave the "Supermax" anyway. The Director of Viru Prison acknowledged that not a single prisoner had ever been transferred from the "Supermax" to ordinary accommodation as a result of the review process; he added that a broader reflection on the functioning of the review procedure was ongoing in the Prison Department. The CPT would like to be informed about the outcome of this reflection which should, in the Committee's view, reflect the abovementioned precepts regarding the scope and frequency of the review process.**

On 1 February 2024, an amendment to the Treatment plan came into force and § 5 of the Regulation was supplemented by subsection 5², according to which a prisoner is relocated if the need for reinforced security has disappeared according to the risk assessment. Pursuant to § 8 of the Minister of Justice Regulation No 21 'Guidelines for the preparation and implementation of the individual treatment plan of a prisoner' of 14 May 2008, a new risk assessment is conducted if new circumstances affecting the treatment plan of the prisoner appear. The aforementioned circumstances include, in particular, the entry into force of a new judgment of conviction or a decision of a body conducting extra-judicial proceedings against the prisoner; circumstances that may affect the results of the assessment of the criminogenic risks of the prisoner or that make it necessary to modify the planned interventions or to place the prisoner in another prison. Although this Regulation provides for carrying out a new risk assessment only upon the occurrence of compelling new circumstances, in practice an exception for prisoner placed in a reinforced security unit has been made and their risk assessments are reviewed with a certain regularity. The placement of a person in a unit with reinforced security is conditioned by their previous long-term activities and conduct, and permanent changes in this case will not occur in just a few months. In order to become convinced that changes have occurred and the prisoner has made the right conclusions, or at least is making an effort to move towards them, once a year is the optimal time to review the risk assessment.

After the entry into force of the above-mentioned amendment to the treatment plan, the prison will be able to make a decision to relocate the person if the need for reinforced security disappears. We note that the provision has already been implemented in practice and persons have been transferred from Viru Vangla II unit to the prison at their place of residence.

- **102. The material conditions in the cells at the 'Supermax' had remained basically unchanged since the CPT visit in 2012. Almost all of the detainees, at the time of the visit, were being held one to a cell. Conditions were generally adequate except for the poor ventilation in some of the cells. The Committee recommends that steps be taken to address this deficiency.**

Viru prison has a forced ventilation system that meets the requirements for ventilation systems for residential buildings and residential premises, as set out in a European standard.²⁵ The forced ventilation system ensures efficient air circulation in the cells. In order for the system to function

smoothly, it is checked regularly. Proper operation of ventilation at Viru Prison is ensured by Riigi Kinnisvara AS (RKAS). The measurement reports submitted to the prison indicate that the ventilation is working properly.

- **103. As regards the regime, prisoners were allowed to leave their cells for a period of four hours per day, in addition to the one-hour of daily outdoor exercise taken in the aforementioned oppressive cubicles (see paragraph 54 above). [---] To sum up, 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 recommends that further steps be taken to expand it, with a preference for activities that may assist prisoners to return to ordinary living units.**

The prison is constantly looking for ways to provide meaningful activities to prisoners in the reinforced security units. For example, in case of good conduct, prisoners have been allowed to use the exercise court, chaplains are allowed to hold services in the chapel on major religious holidays, Mother's and Father's Day events have been organized, prisoners have been able to take part in the Republic Anniversary Quiz, and school and state language training have also taken place outside the unit. It is also possible for some prisoners to engage in seasonal gardening, and in addition to a yoga and music club, there is also an art and board game club.

f. other security-related issues

- **104. Many prisoners interviewed by the delegation stated that, when they had been placed in segregation pursuant to Section 69 of the Imprisonment Act (see paragraph 90 above) they had been handcuffed on a routine basis whenever they left their cell. The CPT wishes to stress that, in its view, the application of handcuffs vis-à-vis isolated prisoners should be an exceptional measure taken only when strictly necessary, based on the individualised risk assessment, and never applied as a routine measure. Further, the grounds for its application should be reviewed on a regular basis. The Committee recommends that the practice with respect to the application of handcuffs vis-à-vis prisoners segregated pursuant to Section 69 of the Imprisonment Act be modified in the light of the aforementioned precepts.**

We agree that the use of handcuffs is an exceptional measure that should not take place routinely, and that there must be a basis provided for in the Imprisonment Act for the use of handcuffs as a measure of restraint. We note that for each case there is an individual assessment of whether and which measure to apply given the circumstances. The measure to be implemented is selected on an individual basis, assessing the prisoner's nature of punishment, dangerousness, conduct during imprisonment, state of health and other relevant circumstances.

- **105. Despite previous recommendations by the CPT, prison officers continued to carry special means (telescopic truncheons, tear gas canisters and handcuffs) in a visible manner inside the prisoner accommodation areas of the three prisons visited. The Committee must reiterate that, in its view, prison officers should not carry such special means as a matter of routine inside the custodial institutions; further, if it is deemed necessary for staff to be issued with such means, they should be hidden from view. The CPT reiterates its recommendation that the Estonian authorities review in the light of the above remarks their policy with respect to the carrying of truncheons, tear gas canisters and handcuffs by prison officers inside the detention areas.**

Thank you for the comment, but we consider the existing practice to be expedient at the moment. The

safety of both prison staff and prisoners must be maintained at all times. Attacks on officers are unpredictable, which is why we consider it necessary for the prison officer to wear such equipment that can be used quickly if necessary in cases where this is absolutely unavoidable. We emphasize that the right to carry a telescopic truncheon and a gas spray is only available to prison officers who have undergone training on the legal bases for the use of a telescopic truncheon and a gas spray and have successfully completed practical exercises.

A prison service officer who is authorized to carry a telescopic truncheon and a gas spray must attend training in the use of a telescopic truncheon and a gas spray to maintain that right and be able to use a telescopic truncheon and a gas spray at the level specified by the Department of Prisons of the Ministry of Justice. The volume of training courses is determined by the Department of Prisons of the Ministry of Justice based on the position and duties of the official.

In 2023, 136 cases involving physical assault or imminent threat of physical assault took place in Tallinn Prison, 218 in Tartu Prison and 128 in Viru Prison. The cases include events such as threatening an official with assault, assault by a prisoner on a person other than a prisoner, causing damage to health by a prisoner, and health damage caused to a prisoner as a result of violence.

g. Complaints procedures and monitoring

- **106. [---] The CPT reiterates its recommendation that the Estonian authorities take the necessary steps to ensure that prisoners are able to lodge complaints to the management in a confidential manner (eg by installing locked complaints boxes accessible to prisoners in appropriate locations, to be opened only by specially designated persons and, for prisoners isolated in locked or punishment cells, by providing the possibility to submit internal complaints in sealed envelopes). Furthermore, steps should be taken to promote prisoners' trust in the fairness of the complaints system, including by ensuring that complaints drafted in the Russian language are responded to.**

It is possible to submit a crime report to the Internal Control Department in a sealed envelope. The Internal Control Department responds to crime reports regardless of the language in which the crime report is written. Therefore, every crime report, regardless of language, is processed by the Internal Control Department and translated into Estonian at the expense of the state.

We believe that prisoners are guaranteed opportunities to submit complaints to the management and other competent bodies, including through the expansion of e-solutions, so that locked complaints boxes are not necessary.

2.3. Psychiatric establishments

2.3.1. Preliminary remarks

- **110. At the time of the 2023 visit, the Psychiatric Clinic of the North Estonia Medical Centre (hereafter, Tallinn Psychiatric Hospital) had the official capacity of 220 (allocated between seven operational wards, the remaining two being out of service) and was accommodating 187 patients including 12 adolescents. 79 of the patients were officially considered as 'civil' involuntary pursuant to Section 11 of the Mental Health Act. Such patients were mostly accommodated on Wards 3, 4, 5 and 8. The average stay was approximately 20 days although some patients (especially on Ward 8) had stayed at the hospital for several months. The delegation was informed that there were ready architectural plans to build a new psychiatric hospital in Tallinn but that approximately**

40 million EUR were missing to be able to start the construction works. The CPT would like to receive more detailed information on this subject.

Phase II of the functional development plan of the Psychiatric Clinic of the North Estonia Medical Centre has been approved and is available on the website of the Ministry of Social Affairs⁷. A functional development plan provides a detailed overview of the project, with architectural drawings also being available. The infrastructure investment project is important in the view of the Ministry of Social Affairs and funding opportunities are being actively sought. There is no financing decision yet, but activities are underway.

- **112. Ahtme Hospital had, at the time of the 2023 visit, the official capacity of 75 (on the in-patient wards including the acute and sub-acute wards) and was accommodating 51 adult male and female patients, including eight formally 'civil' involuntary ones. The average stay was said to be 18 days. The Head doctor informed the delegation of the existence of plans to close the establishment and replace it with a newly-built psychiatric department of Ahtme General Hospital; however, the elaboration of these plans was reportedly not very advanced and it was uncertain whether the necessary financial resources would be made available in the near future. The Committee would like to receive more detailed information from the Estonian authorities on these plans, including the envisaged time-frame for their implementation.**

The psychiatric department of Ahtme Hospital is planned to be transferred to SA East Viru Medical Centre after the construction of the corresponding infrastructure. Phase II of the functional development plan of the Psychiatric Clinic of East Viru Medical Centre has been approved and is available on the website of the Ministry of Social Affairs⁸. A functional development plan provides a detailed overview of the project, with architectural drawings also being available. The infrastructure investment project is important in the view of the Ministry of Social Affairs and funding opportunities are being actively sought. There is no financing decision yet, but activities are underway.

- **114. At the outset of the visit, senior officials from the Ministry of Social Affairs informed the delegation of the progress of de-institutionalisation policy in the psychiatry sector. The numbers of in-patients in psychiatric establishments were decreasing steadily and it was reportedly no longer a problem (since approximately 3 years) to transfer psychiatric patients to social care homes. Further, pursuant to the Mental Health Care Policy Green Paper and the Psychiatry Sector Development Plan until 2030 (the latter adopted by the Estonian Psychiatric Association), the number of places in community-based outpatient care structures was on the rise, with approximately 2,100 persons already benefitting from such services. The CPT welcomes these efforts; it would like to be informed of the further progress made by the Estonian authorities in the implementation of their de-institutionalisation policy.**

By 2024, 14 institutional special care homes will be closed in Estonia and the people who received services there have settled in family-like households set up inside the communities. The process has been going on for about 15 years. The largest closed special care homes (Sõmera and Võisiku) accommodated 370 and 307 beneficiaries, respectively. A total of 1,725 special care facilities have been reorganised so far and 517 new community living facilities have been created.

Estonia is continuing the process of reorganisation of special care institutions. With support from the ERDF, the reorganisation of 24-hour special care units with more than 30 places will continue. There

⁷ Phase II of the functional development plan of the Psychiatric Clinic of the North Estonia Medical Centre Available at:<https://www.sm.ee/haiglavork-ja-haiglavorgu-arengukavad#tutvu-terviseministr>

⁸ Phase II of the functional development plan of the Psychiatric Clinic of East Viru Medical Centre. Available at:<https://www.sm.ee/haiglavork-ja-haiglavorgu-arengukavad#tutvu-terviseministr>

are 10 such special care homes left in 2024 with a total of 593 people receiving services. In the coming years, it is estimated that we will be able to additionally reorganise the places of 320 individuals. The places of service to be established will be in an urban environment with access to both public services and guaranteed access to learning and/or employment opportunities. During the reorganisation, it is planned to significantly increase the number of service places in Tallinn, where about 1/3 of the Estonian population lives.

The basis for the use of support funds will be the conditions for granting support, which will be prepared by the Ministry of Social Affairs. The relevant documents are scheduled to be signed in 2024. The period to use the support runs until 31 December 2029. The experience gained in previous support periods in carrying out similar activities will be an important help in the implementation of the project.

2.3.2. Ill-treatment

- ***115. 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 forensic psychiatry treatment department at the Viljandi Hospital Foundation Psychiatric Clinic, 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 recommends that orderlies at Viljandi Forensic Department be reminded that such practices are unacceptable, illegal and will be punished accordingly.***

At the forensic treatment department, no disciplinary measures or punishments are applied to patients. Allegations of this kind (or, more broadly, violent behaviour on the part of staff) are thoroughly investigated at Viljandi Hospital. If unacceptable behaviour (including the threat of punishment) has occurred, the employee has always received instructions or, in more serious cases, an emergency termination of the employment contract has followed. The last such incident occurred in August 2023. In Viljandi Hospital, internal control and HR specialists will also be involved in the investigation and proceedings. Depending on the health status and/or for patients at higher danger risk, there may be a need to limit certain benefits. For example, if a patient makes a heater or an electric shock weapon from the wires of their TV, then taking away the wires and TV from them can not be called a punishment, but ending a threat. In doing so, these restrictions are justified and explained to the patient, in addition, it is not uncommon of agreeing to disagree. Items that have been taken away, such as a television, will be returned as soon as possible when the risk of danger has decreased. The hospital is regularly engaged in updating the rules and internal rules of the department, training employees to ensure the readiness of staff to deal with various, including unexpected and stressful situations, without threatening (with punishment).

In order to receive regular feedback from patients (including about living conditions, staff behaviour, etc), since 2021, patients in the forensic treatment department have been included in a hospital-wide feedback survey, which is anonymous. The most recent such survey took place in early 2023, and there were no indications of violence on the part of staff or punishment of patients. In addition to scheduled surveys, patients can submit complaints both anonymously and personally to, for example, the head of the clinic, the Viljandi Hospital management board or the quality manager (in the tasks of internal control), or the head of the department. Guardians and close ones of patients also have such right.

Following the reference in the CPT report to the punishment of patients (including the use of cold showers), the Viljandi Hospital conducted an additional emergency investigation among patients and staff, where no results indicating punishment and violence have been revealed so far (including 1 patient stating that they had heard about the use of cold showers, but in another institution). However,

additional and more detailed discussions have been planned.

- **116. As for inter-patient violence, the information gathered by the delegation (from interviews with patients and staff and the consultation of relevant records) 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. The CPT recommends that this lacuna be eliminated.**

SA Ahtme Hospital clarified the procedure for registering cases of violence between patients and regularly organises trainings among employees in order to raise awareness among employees to reduce violence among patients.

2.3.3. Living conditions

- **117. 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 (which also applied to the furniture comprising, as a minimum, beds with bedding, bedside tables and cupboards). Further, patients had unrestricted access to the toilet, washing and shower facilities (all of them being decent and clean), 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 recommends 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.**

We agree with the observations made. At the same time, we acknowledge that all the departments referred to are located in buildings that do not meet contemporary conditions and where it is difficult to create an appropriate contemporary treatment environment. Despite this, all hospitals pay attention to improving living conditions, and increasing emphasis is placed on enabling the use of patients' personal items and clothing. However, the current minimum requirements (and their layout) are the main obstacle to the creation of a modern treatment environment (for example, the placement of additional furniture or, in some cases, a chair-table mentioned in the summary in each ward is unfortunately not possible, not always for reasons of safety, but rather due to the lack of physical space).

- **118. The delegation also observed that most patients on the aforementioned wards (as well as at Kuressaare Psychiatric Department) were wearing hospital clothes (usually pyjamas) throughout the day. In this context, the CPT must stress once again that individualization of clothing forms a part of the therapeutic process and that patients should be allowed and encouraged to wear personalized clothes. This is also a matter of preserving their human dignity. 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.**

Thank you for bringing this to our attention.

- **119. 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 must stress 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. The Committee recommends that efforts be made in all the establishments visited (and, as applicable, in all other psychiatric establishments in Estonia) to ensure that this is the case.**

Thank you for the recommendation provided.

2.3.4. Treatment and staff

- **120. [---] The CPT would like to receive more detailed information about the practice with respect to PRN prescriptions at Ahtme Hospital. More generally, the Committee refers to paragraph 28 of document CPT/Inf (2020) 41 concerning the standards that should be followed (at Ahtme Hospital and, as applicable, in other psychiatric hospitals in Estonia) whenever recourse is had to PRN prescriptions.**

SA Ahtme Haigla informed that prescribing medicinal products in *pro re nata* situations was reviewed and the use of medicinal products not directly prescribed will be decided by the attending physician each time.

- **122. [---] In the light of the above remarks, the CPT recommends that efforts be made to develop the offer of psycho-social therapeutic activities in the psychiatric establishments visited; this is of particular importance with respect to patients who tend to remain in the hospital for longer periods (eg those accommodated on the forensic wards in Viljandi). Further, steps are required to put in place a genuine multi-disciplinary team approach to working with patients.**

The Committee also recommends that an individual treatment plan be drawn up for each patient (taking into account the special needs of acute, long-term patients, and patients placed in a forensic psychiatric department, including the need to reduce any risks they may pose), indicating the diagnosis, the goals of treatment, the therapeutic means used and the staff member responsible, with timescales. The treatment plan should also ensure regular review of the patient's mental health condition and a review of the patient's medication. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans.

In this area, Viljandi Hospital has made significant efforts in recent years and, in our opinion, has yielded the most progress. For each patient, a life skills and coping assessment is carried out by the activity supervisor and, if necessary, the consequent teaching and guidance of the patient. To this end, activity supervisors prepare assessment forms for patients, which are used to carry out purposeful activities in collaboration with patients. In cooperation with patients, goals are set and action plans are drawn up for half a year. In order to develop the direction of occupational therapy, patients (who have expressed a desire to do so) have started to receive offers of supervised work activities, ie conducting cleaning services. Before the cleaning service is provided, a professional profile is filled out with the patient (their previous work experience and abilities are assessed), then the patients receive training in cleaning services (also a certificate upon completion of the training) and, as part of the internship, it is possible to test their skills in the provision of cleaning services on hospital premises, under the guidance and supervision of activity supervisors. The patients' feedback on participation in providing the service has been extremely positive and quite a few patients have started to show interest in looking for work in the cleaning services after hospital treatment.

In the further development of the service, cooperation is planned with the Viljandi Vocational Training Centre and cooperation with the Unemployment Insurance Fund has begun. In cooperation with patients (within the framework of occupational therapy) and under the leadership of activity supervisors, a unique health track has been created where you can perform various exercises that improve physical fitness as well as to practice sports that develop team work (volleyball, basketball, floor checkers, etc). Individual training plans are planned for patients, and both individual training and group trainings (eg volleyball and Indica training) are carried out on an ongoing basis. The activities are carried out by an activity supervisor who is a professional coach, who specializes in the promotion of sports and occupational training in cooperation with patients. In addition, patients have the opportunity to spend time in a learning and activity centre located in a separate building, where various workshops are held under the supervision of the activity supervisors (eg engagement in art, nature, “discover the world”, cooking, sports, restoration and woodworking). Patients have the opportunity to visit the newly renovated library and borrow literature of their choice. In order to support patients with mental disorders who have been hospitalized for a long time, the employees of SA Viljandi Hospital have formed MTÜ Loomesillad, which has so far focused on the development of recreational activities for coercive treatment patients in the territory of Jämejala. For this purpose, various opportunities for cooperation with local educational institutions and companies are sought. There have been participations in various projects, in which patients of the coercive treatment department have also been involved. The project ‘Publication of creative collection *Another Side* of patients with mental disorders’, within the framework of which the works of Jämejala patients (art, poetry, writings) were collected and published as a collection. Only works that the patients themselves have submitted to the competition were published in the collection. Only the initials of the patients were included under the creative works.

Another project ‘Development of the most species-rich park in Viljandimaa in the mental health village of Jämejala’, where in cooperation with patients, Jämejala Park was cleaned, old and new park benches were restored and the most important trees in the park were marked with information posts. Such activities help to broaden the horizons of patients on environmental issues. To send letters, patients are usually provided with the necessary means by their guardian. However, as a rule, in the absence of funds, the sending of letters from the Viljandi Hospital funds is also allowed in a broader way than the statutory obligation to ensure free correspondence with the Chancellor of Justice — eg for submitting a statement/application with the court, writing to loved ones, etc. As a rule, in addition to paper correspondence, patients have the opportunity to send emails with the help of a social worker. From the activities in psychotherapy, the option of family therapy, courses to teach emotion regulation and self-management skills, as well as the possibility of specific addiction treatment has been added to individual and group therapy. If necessary and at the request of the patient, we have found the help of specialists from outside the department, eg for educational or religious activities.

Regarding the treatment plan, we clarify that in Estonia there is no mandatory document called ‘treatment plan’, which should be included in the medical summary as a separate document. The medical summary and the epicrisis that summarizes it as a collection is the treatment plan, with an epicrisis, the treatment plan is transmitted to the treatment team to adhere to.

- **125. By contrast with the above (and rather unsurprisingly given the limited options available, see paragraph 122 above), there were not enough other specialists in the establishments visited. [---] The CPT recommends that efforts be made to redeploy the current complement of therapeutic staff (clinical psychologists, occupational therapists and other specialists such as art therapists and physiotherapists) more evenly across the different wards at Tallinn Psychiatric Hospital. Further, the Committee recommends that steps be taken to reinforce the relevant staff complement in the other psychiatric establishments visited. Considering the important function they perform in fostering patients’ reintegration, it is imperative to recruit more social workers in all the establishments.**

In Estonia, the shortage of specialists in the field of psychiatry is acute. Hospitals use specialists

where patients can benefit most from them and where professionals can best apply their skills. However, we are working in the direction to involve more non-clinical professionals in healthcare to improve the quality of the services

- **126. In the four establishments, rooms were open during the day (between 7 a.m. and 10 p.m.) and patients could move within the wards and associate in the corridors and in communal/day rooms. While some leisure activities were available (eg board or computer games, TV, radio and books, and occasional access to a gym), many if not most of the patients were seen to be walking around the wards or lying idly on their beds. The CPT recommends that further efforts be made to increase the offer of leisure activities and encourage patients to participate in them.**

Thank you again for bringing this to our attention. This is a general remark. Opportunities have been created to spend free time purposefully. No one can be forced to participate in them.

2.3.5. Means of restraint

- **127. As far as the delegation could ascertain, seclusion was as a rule not practised in the psychiatric establishments visited. This was, however, not entirely clear at Ahtme Hospital where the information provided by staff was somewhat contradictory¹⁶⁰ (and there was no trace of such measures having been resorted to in the relevant documentation). The CPT would like to receive confirmation that seclusion is indeed never applied at Ahtme Hospital. [---] The Committee recommends that this legal lacuna be eliminated as a matter of priority; if 'Regime 5' is to continue being resorted to, it must have a clear legal basis and there must be precise regulations containing, as a minimum, the following elements:**
 - **the reasons for initiating and continuing the placement on 'Regime 5' must be medically authorised and justified, involve multi-disciplinary clinical input, be risk-based and fully recorded in the patient's personal file as part of the individual care plan, which must also include, in addition to medication, the psychosocial therapies that will be offered to the patient;**
 - **there must be a clearly described planned pathway, formulated in consultation with the patient, which defines how attempts will be rigorously made to re-integrate the patient back into full association with others in a less restrictive environment, as soon as possible;**
 - **the patient must have regular, meaningful, daily, face-to-face human contact, opportunities to participate in meaningful activities (including recreational, with access to reading material and radio or TV) and possibilities to maintain contact with the outside world via visits or telephone;**
 - **staff must monitor and record the patient's state on a daily basis and continuation of the placement on 'Regime 5' must be reviewed and justified by a multi-disciplinary team and recorded on at least a weekly basis;**
 - **should the placement on 'Regime 5' continue beyond a few months, there must be a formal independent, external clinical review of the patient's case to consider possible alternative approaches;**
 - **the patient concerned must have the possibility to appeal against the imposition/prolongation of the measure to an independent authority;**
 - **a separate register must be established to record all instances of placement on 'Regime 5'. The entries in the register should include the time at which the**

measure began and ended; the reasons for resorting to the measure; daily entries by the staff on the clinical review of the patient's state, time out of the room, activities offered and taken; weekly entries on the review by a multi-disciplinary team. Additionally, every psychiatric establishment concerned should have a comprehensive, carefully developed written policy on the use of 'Regime 5'.

We confirm that SA Ahtme Hospital does not use seclusion.

The 'Regime 5' (hereinafter: R5) treatment regime applied in the forensic psychiatric treatment department at the Viljandi Hospital Foundation Psychiatric Clinic was required by patients whose danger resulting from violent behaviour required placement in an isolation room for a longer period of time than usual within the meaning of clause 4 of subsection 2 of § 14 of the Mental Health Act. Since prolonged stay in the isolation room is an extreme measure, Viljandi Hospital, in coordination with the Ministry of Social Affairs and the Health Board, decided to build separate rooms and create R5. Thus, in essence, R5 is an analogous measure to clause 4 of subsection 2 of § 14 of the Mental Health Act, which takes place in somewhat more spacious living conditions and with greater rights and opportunities for the patient.

Ensuring safety is one of the obligations imposed on Viljandi Hospital in the provision of coercive treatment. Pursuant to § 17 of the Mental Health Act, the objective of psychiatric coercive treatment is the treatment of mental disorders, decreasing the risk resulting from mental disorders and restoring the person's coping skills for independent coping in the society.. According to § 2 of the Minister of Social Affairs Regulation of 1 September 2011 (Requirements for the provider of psychiatric coercive treatment, requirements for psychiatric treatment and the organisation of work of a health care provider upon the use of psychiatric coercive treatment ordered by court) referred to in the same Act, the Viljandi Hospital must ensure the existence of a security service at the stationary forensic psychiatry treatment department or ward block and on the premises of the forensic treatment department or ward block, the health service provider must implement physical and organizational security measures that reduce the risk of dangerous acts being committed and prevent arbitrary departure of the patient from the department or ward block.

Since 2018, the Viljandi Hospital has repeatedly raised legal controversies or shortcomings regarding coercive treatment, including the question of the legitimacy of R5, at various national roundtables and meetings on the subject. For example, Viljandi Hospitals has drawn attention to the fact that the Mental Health Act regulates the application of means of restraint in cases where the dangerousness of the patient is due to their mental disorder, while the forensic psychiatric treatment department involves situations where violent behaviour of the patient is not causally related to their mental disorder or state of health.

Viljandi Hospital, in collaboration with EPS, has sought to initiate a process of modernization of the Mental Health Act. Viljandi Hospital has also tried to seek a position and guidance from the courts upon occurrence of legislative gaps (eg on restrictions not arising from the Mental Health Act), but has so far received a recommendation to adhere to the above legislation in response. Viljandi Hospital fully agrees with the view that the reasons for the patient's separation (R5) must be clear, on the basis of which the department regularly assesses the need for an extension and makes every effort to bring the patient back to the general department as soon as possible. R5 is applied by a multidisciplinary council (psychiatrists, psychologist, head of department) and one of its most important prerequisites is the high risk of violent behaviour identified in the risk assessment. There are ongoing patient assessments by nurses and caregivers during R5. Monitoring data is recorded in writing at an interval of 1h. The need for the continuation of R5 is assessed on a regular weekly basis by the treatment team and the head of the department at a major visit. The necessity of continuing/terminating measure R5 is assessed at least twice a year by a psychiatric committee, which does not include psychiatrists working at Viljandi Hospital on a daily basis.

The psychiatric clinic R5 has also ordered an additional committee consisting of specialists from Estonia and Finland for long-time R5 patients. These discussions and evaluations address not only the continuation/termination of the regime, but also the possibilities for a less restrictive regime. To

enable activities for patients on R5, the department has more caregivers at work on a daily basis, so that patients can move as much as possible among others, go outdoors, and also participate in collaborative activities. Patients on R5 are dealt with by a separate activity supervisor. Regular and frequent are conversations with the treatment team (doctors, confidant nurse, on-call nurses, psychologists, etc).

In addition, we have tried to involve people outside the hospital (church teacher, guardian) and loved ones. In view of the above, this is a measure that is implemented as rarely as possible - since the creation of R5 in 2019, 6 patients have been treated under it.

- **128. As regards mechanical restraint (fixation), it was applied in all the psychiatric establishments visited, exclusively upon a doctor's order (except in case of emergency, usually after 3 p.m. and on weekends, when the initial decision might be taken by a nurse who would immediately report to and seek approval from the duty doctor), for relatively short periods (usually up to a few hours) and in adequate premises (rooms which were sufficiently spacious (measuring no less than 8 m²), well-lit and ventilated (except at Ahtme Hospital), clean and equipped with a bed (with bedding) attached to the floor and with adjoining dedicated toilet facilities).**

At Tallinn Psychiatric Hospital, Kuressaare Psychiatric Department and Viljandi Forensic Department, the main issue of concern was the lack of direct ongoing supervision by a nurse whenever a patient was subjected to mechanical restraint (fixation). 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. The Committee recommends that the relevant rules be amended accordingly with respect to all psychiatric establishments in Estonia.

Thank you for the recommendation provided.

- **129. 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. Regarding adolescent patients, the CPT considers that they should in principle never be subjected to means of restraint. The risks and potential consequences of applying such means are indeed more serious taking into account the young persons' vulnerability. In extreme cases where it is deemed necessary to intervene physically to avoid harm to self or others, the preferable intervention is the use of manual restraint, that is, staff holding the adolescent patient until he/she calms down. As for the application of means of restraint to a voluntary patients, the Committee's view is that, whenever such application is deemed necessary and the patient disagrees, the legal status of the patient should be reviewed. The CPT recommends that the relevant rules and practices at Tallinn Psychiatric Hospital, Kuressaare Psychiatric Department and Ahtme Hospital be modified in the light of the above remarks.**

Thank you for the recommendation provided.

According to the information received in hospitals, work processes will continue to be improved and perfected according to the CPT recommendation. However, we point out that the need to restrain adolescents is rare, but inevitable in certain situations. Holding an adolescent instead of restraining them can be an even more traumatic experience.

In addition, given the gender difference between healthcare staff and the patient, the staff may also

be subject to harassment allegations.

- **130 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. Furthermore, unlike in the other establishments visited, the recording of instances of fixation was succinct and it would appear that there was no systematic debriefing with the patient after the end of the measure.**

The CPT recommends that steps be taken to remedy these deficiencies at Ahtme Hospital. In this context, the Committee wishes in particular to reiterate 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 healthcare professionals and not by police officers or security guards.

Security guards (four of them, to be precise) were also employed at Tallinn Psychiatric Hospital and a few patients alleged that the guards had used handcuffs while the patients were being taken to the restraint room. In the Committee's opinion, only equipment designed to limit harmful effects (preferably, padded cloth straps) should be used in order to minimise the risk of the patient sustaining injury and/or suffering pain. Handcuffs should never be used to immobilise a patient.

Thank you for bringing this to our attention. We will take the necessary measures to change the situation.

- **131. In all the psychiatric establishments visited recourse was occasionally had to chemical restraint (i.e. forced injection of medication aiming at rapidly calming down an agitated patient). The delegation was pleased to note that the use of chemical restraint was subjected to the same safeguards as other forms of restraint, including the obligation to record its use. That said, reference is made to the comments and recommendations in paragraph 120 above regarding the use of PRN prescriptions at Ahtme Hospital.**

SA Ahtme Haigla informed that prescribing medicinal products in *pro re nata* situations was reviewed and the use of medicinal products not directly prescribed will be decided by the attending physician each time.

2.3.6. Safeguards

- **132. The delegation observed that the relevant legal provisions (which, as already mentioned in paragraph 110 above, have remained unchanged), 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 (such as the court, the Chancellor of Justice or the Health Board).**

That said, at Viljandi Forensic Department, the delegation was told that a letter addressed to an outside authority (other than the Chancellor of Justice) would not be sent by the establishment if the patient did not pay for the postal stamp. The CPT

has serious misgivings about what appears to be an excessively formalistic approach which could de facto restrict patients' access to outside complaints mechanisms; the Committee recommends that steps be taken to remedy this state of affairs.

To send letters, patients are usually provided with the necessary means by their guardian. However, as a rule, in the absence of funds, the sending of letters from the Viljandi Hospital funds is also allowed in a broader way than the statutory obligation to ensure free correspondence with the Chancellor of Justice — eg for submitting a statement/application with the court, writing to loved ones, etc. As a rule, in addition to paper correspondence, patients have the opportunity to send emails with the help of a social worker.

- ***133. More fundamentally, the Committee wishes to point 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. In this context, the delegation noted that the aforementioned consent forms for "civil" patients continued to be drafted in a manner suggesting that consent to hospitalization equalled consent to treatment.***

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 coercive treatment measure.

The CPT recommends that the aforementioned legal lacunae be eliminated as a matter of priority. In particular, the legislation in force should be amended so as to make sure that "civil" patients are systematically asked (in writing) to give their informed consent to the treatment proposed (separately from the consent to hospitalisation) and that, in the case of forensic patients, there is an automatic periodic court review of the coercive treatment measure. Steps should also be taken to make sure that psychiatric establishments are systematically informed whenever a patient they admit has a legal guardian (who should then be informed of the patient's admission).

Thank you for the suggestions. We will take this into account in our legislative plans.

2.4. Military detention

- ***137. As concerns the second type of placement, the delegation was concerned to note that military servicemen serving their disciplinary penalty at Tallinn (Police) Detention House were not offered genuine outdoor exercise whenever their detention exceeded 24 hours (unlike other categories of detained persons).¹In the aforementioned letter of 12 July 2023, the Estonian authorities stated that military servicemen detained 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 requests 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.***

In all PBGB Detention Houses where a military officer is present while under disciplinary arrest, there is the possibility and right to stay outdoors once a day in accordance with the internal rules and the agenda of the Detention House, the minimum time is one hour, but longer is not prohibited.