



## **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 30 May to 6 June 2012**

The Estonian Government has requested the publication of this response. The report of the CPT on its May/June 2012 visit to Estonia is set out in document CPT/Inf (2014) 1.

Strasbourg, 21 January 2014



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## 1. NATIONAL PREVENTIVE MECHANISM

### Comments

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

According to the Constitution of the Republic of Estonia, Chancellor of Justice is a constitutional body and only the Chancellor of Justice has the right to institute or change the structure and job management in the Office of the Chancellor of Justice.

Before and after the NPM function was stipulated in the Chancellor of Justice Act art 1 (7), different options have been considered thoroughly, how to fulfill most efficiently the new task with limited resources. Deliberate choice has been not to form a new separated unit or body within the Office of the Chancellor of Justice for NPM work.

Estonia is relatively small and so is Chancellor of Justice's office, Chancellor of Justice have considered it to be more practical if members of the team are specialized on concrete fields and are taking care of all the aspects related to it. That means in practice dealing with complaints, monitoring, carrying out constitutional review etc. At the first glance it may seem like workload no-one can effectively bear, but in reality this method has proven to be quite efficient. That makes people real specialists on their fields who have through knowledge of theory and practice as well as can pinpoint the existing or future problems. Also Chancellor of Justice admit, that in theory, it may seem contradictory that Chancellor of Justice acts simultaneously on one hand as an ombudsman (reactive work) and on the other hand as NPM (proactive work). But it is Chancellor of Justice's strong belief that in practice, such a conflict does not arise, especially on the point of view of supervised authorities or persons deprived from their liberties. On inspection visits, Chancellor of Justice NPM mandate is always explained to respective authorities and to detained persons. Information gained from ombudsman work is considered as an input when planning inspection visits and to help determine systematic problems, which in essence, is the general task for NPM-s.

## 2. ESTABLISHMENTS UNDER AUTHORITY OF THE MINISTRY OF THE INTERIOR

### 2.1 Preliminary remarks

#### Recommendations

- ***the Estonian authorities to put a definitive end as soon as possible to the practice of accommodating remand and sentenced prisoners in police detention houses (paragraph 11);***

Persons convicted by court for committing an offence serve their sentence in a prison. Persons convicted for a misdemeanour serve their sentence in a detention house and the maximum limit of punishment imposed for a misdemeanour is 30 days of detention. All the arrested and convicted persons are only held at a house of detention for the purpose of performing official procedures and are returned to the prison at the first opportunity after the completion of the procedures.

- ***the Estonian authorities to take measures to ensure that the return of remand prisoners to police detention houses for investigation purposes is only sought and authorized very exceptionally, for specific reasons and for the shortest possible time; supervising prosecutors should examine carefully any requests for such returns made by police investigators (paragraph 12);***

We support the principle that arrested or convicted persons placed at a detention house for the purpose of performing official procedures are only held at the detention house for the duration of the performance of the procedures. In order to ensure that, a procedure has been established, pursuant to which the officer performing the procedures has to submit a relevant application to the head of the detention house for holding a person at the detention house. The head of the detention house either approves or rejects the application. The criminal offices of the Prefectures in cooperation with the prosecutor's office perform random checks on the necessity of detaining arrested people as a preventative measure and the possibility of using the option of having the person sign against leaving his/her place of residence as a preventative measure.

- ***no remand prisoner to be returned to police detention in Narva, pending the entry into service of the new detention house in the city (paragraph 13).***

The old detention cell of the East Prefecture in Narva was shut down on 30 January 2013.

### 2.2 Ill-treatment

#### Recommendations

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

#### Comments

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

Directive No 475 of the Director General of the Police and Border Guard Board of 28 December 2011, "Requirements and procedure for the special and physical training of the police officers of the Police and Border Guard Board", stipulates that every officer is obligated to take part in self-defence and tactical training once in every six months and in shooting training twice in every six months. The training includes techniques for applying direct force and the proportionality and legal bases thereof. The training also addresses problems that have arisen in using force in practice. In addition, officers are obligated to pass direct force (force and special device) and firearms tests once a year. The content of training: the skill of using the direct force means of the police, basic knowledge of security tactics, cooperation skills (e.g. work distribution in a team, communication), the skill to use a radio station and the skill to check and detain persons as well as familiarity with and the ability to apply the legal bases of using direct force. Training is conducted by police

instructors who have completed instructor training in regards to the use of technical equipment and force and the legal bases of using force. During training days held in prefectures, instructors emphasise the importance of the issue in question and explain how mistakes arise and how to avoid them in the future. Problems encountered at detention houses are also discussed at regular national meetings of the heads of detention houses. At training courses on using force organised for police officers, instructors have emphasised and will continue to emphasise the importance of the issue as well as the importance of professional conduct and the unacceptability of giving in to emotions.

The use of force by an officer in the performance of official duties must remain within the limits of necessity and be in accordance with the objective to be achieved. Section 291 of the Penal Code stipulates punishment for officers unlawfully using a weapon, special equipment or violence while performing their official duties. Police supervision activities are regulated by Chapter 2<sup>1</sup> of the Police and Border Guard Act

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

The organisation of police training is described in the previous section. Besides other skills, trainings equally focus on the communication skills of officers.

#### Requests for information

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

Fifty-seven (57) complaints concerning the violence of police officers were submitted in 2012. In 31 cases no proceedings were initiated after preliminary inspection and in 16 cases the proceedings were terminated due to the absence of the necessary elements of an offence.

We hereby present the following information concerning active criminal proceedings. Criminal proceedings 11210000064, 11210000083 and 12210000013, under which patrol police officers A.A. and U.N. are suspected of using handcuffs and unjustified violence upon the detention of persons (detained J.T. without legal basis, unlawfully used handcuffs and excessive physical force on J.T., thereby causing pain and health damage); eight incidents in total. General proceedings at the prosecutor's office. Criminal proceedings 12210000066, under which detention house convoy officer V.B. is suspected of using unjustified force (exceeded the limit of intensity in using force, i.e. without legal basis pursuant to the Police and Border Guard Act, placed handcuffs on M.P., who had been brought to the house for recovering from intoxication, and during the performance of a security check twisted M.P.'s arms behind his back to such an extent as to cause pain. After that, V.B. treated M.P. in a humiliating and undignified manner, i.e. threw M.P. onto the floor of the reception room of the detention house, lifted him up after 40 seconds and took him up to the counter, twisting M.P.'s arms behind his back to such an extent as to cause pain; immediately thereafter V.B. took M.P. to a cell and handcuffed M.P.'s one hand to one bunk bed and the other hand to another bunk bed so that M.P. could not move, and left the victim chained to the bunk beds in such a manner for a longer period). Four incidents in total. General proceedings at the prosecutor's office.

Criminal proceedings 12210000061, under which patrol police officer S.N. was suspected of using unjustified force on a person being checked (kicking (once) an intoxicated person who was lying down). Closed by the prosecutor's office on the basis of section 202 of the Code of Criminal Procedure (termination of criminal proceedings in event of lack of public interest in proceedings and in case of negligible guilt) upon the payment of 600 EUR into public revenues.

### **2.3 Fundamental safeguards against ill-treatment**

#### Recommendations

- ***the Estonian authorities to make further efforts to render fully effective in practice the right of persons deprived of their liberty by the police to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty. Further, detained persons should be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 18);***

Next-of-kin or third persons are notified of detention at the first opportunity, but not later than upon placement in a detention facility. In practice, notification is given within a couple of hours from detention, after the end of urgent procedures. The Police and Border Guard Board have not received any complaints concerning non-notification.

Section 21 of the Constitution stipulates that everyone who has been deprived of his or her liberty must be informed promptly, in a language and manner which he or she understands, of the reason for the deprivation of liberty and of his or her rights, and be given an opportunity to notify those closest to him or her. A person suspected of a criminal offence must also be promptly given an opportunity to choose a counsel and to confer with him or her. The right of a person suspected of a criminal offence to notify those closest to him or her of the deprivation of liberty may be circumscribed only in the cases and pursuant to a procedure provided by law to prevent a criminal offence or in the interests of ascertaining the truth in a criminal case. No one may be held in custody for more than forty-eight hours without a specific authorisation of a court. The decision of the court must be promptly communicated to the person in custody in a language and manner which he or she understands. Section 133 of the Code of Criminal Procedure provides clear regulation for notification of arrest. Pursuant to subsection 1 of the said section, a preliminary investigation judge or court shall immediately give notification of the arrest of a person to a person close to the arrested person and his or her place of employment or study.

In accordance with the Constitution, the rights of persons are also guaranteed in lesser legal acts. Section 8 of the Internal Rules of Procedure of Detention Houses stipulates the right of a detained person to notify a person close to him or her (chosen by the detained person) of detention. The relevant detention house officer checks whether the right of notification has been ensured, except in cases where the law stipulates otherwise. The police are obligated to comply with all the aforementioned legal acts.

- ***the relevant legal provisions to be amended so as to ensure that any exceptions to the right of notification of custody are clearly defined and applied for as short a time as possible (paragraph 19);***

Pursuant to § 217 (10) of the applicable Code of Criminal Procedure, a person detained as a suspect is given an opportunity to notify at least one person close to him or her at his or her choice of his or her detention through a body conducting proceedings. If the notification prejudices a criminal proceeding, the opportunity to notify may be refused with the permission of a Prosecutor's Office. The decision on refusal to notify is always made considering the circumstances of each specific case and it has to be reasoned. If in that specific case the circumstances that brought about the refusal have ceased to exist, then the opportunity to notify is restored. The decision of the Prosecutor's Office may be appealed.

We would also like to point out that currently a draft directive of the European Union regulating notification of custody is discussed. Once it is passed, Estonia plans to review the national law in light of the directive and make amendments, if necessary.

- ***the relevant legislation to be amended so as to ensure that whenever a minor is detained as a criminal suspect, the police are obliged to immediately notify the parent, guardian or curator (paragraph 20);***

The notification of a person is also regulated by the Police and Border Guard Act § 7<sup>33</sup> (2) of which prescribes that A person detained shall be immediately notified in a language he or she understands and in a clear manner of the reason for his or her detention and of his or her rights, and given the opportunity to notify a person close to him or her of his or her detention. If a person detained is in a state due to which he or she is not able to notify a person close to him or her of his or her detention, the police shall immediately notify a person close to him or her, if possible. If a person detained is a minor or another person with restricted active

legal capacity, the police shall notify his or her legal representative of the detention of the person at the first opportunity, if possible. On the demand of the person detained, he or she shall be given an opportunity to notify a representative of the detention. Currently, there is no respective regulation in the Code of Criminal Procedure, however, we are considering whether such amendment is necessary.

- ***measures to be taken to ensure that the presence of a lawyer is obligatory during police questioning of juveniles detained on suspicion of having committed a misdemeanor (paragraph 22);***

Pursuant to the applicable Code of Misdemeanour Procedure, a person subject to proceedings has the right to the assistance of a counsel and to contact his or her counsel upon his or her detention or any other procedural act which is performed first. Upon detention or any other procedural act which is performed first, the body conducting the proceedings shall provide the person subject to proceedings with the opportunity to use the means of communication at the disposal of the body in order to contact the counsel of the person (§ 19 (1) 2) and § 19 (2)).

Also a draft Code of Misdemeanour Procedure has been prepared by now. The draft now prescribes that if the person subject to proceedings has no means of communication, the body conducting the proceedings shall, at the request of the person subject to proceedings, notify his or her counsel or legal representative (parent) of the initiation of misdemeanour proceedings (§ 27 (4)). Thus, a minor has the right to request his or her legal representative to be notified and a legal representative to participate in the proceedings.

In misdemeanour proceedings, the participation of a counsel in a court proceeding is mandatory if the person subject to proceedings is 14 to 18 years of age or is unable to represent himself or herself due to a mental disorder (§ 19 (3)). The fact that the participation of a counsel is mandatory means that a counsel shall be granted as state legal aid, if the person is unable to hire one on his or her own, only for persons at the age of 14-18 and for persons with a mental disorder only in judicial proceedings.

- ***the Estonian authorities to adopt specific legal provisions on access to a doctor for persons detained by the police, which meet fully the requirements set out in the third subparagraph of paragraph 24 (paragraph 24);***

The Director General of the Police and Border Guard Board approved the "Guidelines for the preliminary health inspection of detainees and the preliminary health inspection report" under Directive No 422 of 1 December 2011. Pursuant to the said guidelines, a healthcare employee or a detention house officer assesses, within the limits of official competence, the health of the detained person by external observation and by interviewing the detainee prior to placing the detainee in a cell. Healthcare employees holding the qualification of a nurse have completed sufficient medical training to be competent to perform such procedures. Therefore we hold that involving employees with the qualification of a doctor in the process of performing preliminary health inspection is not proportionate and expedient.

Pursuant to section 28 of the Constitution, everyone is entitled to protection of his or her health. The categories and extent of the assistance, and the conditions and procedure for its allocation are provided by law. In accordance with subsection 10(3) of the Internal Rules of Procedure of Detention Houses, a medical inspection by a healthcare service provider is organised for detainees, if necessary. The physical and mental health of detainees is constantly monitored in a detention house; checks are performed as necessary and sick detainees are treated within the means available to the detention house. Pursuant to subsection 30(2) of the Internal Rules of Procedure of Detention Houses, the availability of 24h emergency care is guaranteed to detainees and, if necessary, an emergency service provider is called or the detainee is taken to a healthcare service provider. Subsection 30(3) of the Internal Rules of Procedure of Detention Houses stipulates that if the detained person requires treatment the provision of which is not possible in the detention house, the detained person shall be sent on the basis of a relocation act under guard to treatment to the relevant provider of specialized medical care to the healthcare establishment or prison. Prisons have a well-equipped hospital, where high-level medical care can be given.

- ***the Estonian authorities to take immediate steps to ensure that all persons admitted to a police detention house are thoroughly screened by a health-care professional without delay. The record drawn up following that screening should contain: (i) a full account of objective medical findings based on a thorough examination, (ii) a full account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's conclusions in the light of (i) and (ii), indicating, as far as possible, the consistency between any allegations made and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 25);***

Subsection 10(1) of the Internal Rules of Procedure of Detention Houses stipulates that prior to placing the detainee in a cell, the detention house officer assesses the health of the detained person by external observation and, if possible, by interviewing the detainee, and draws up a preliminary health inspection report concerning the health condition of the person. The report is added to the personal file of the detainee.

We hold that the health inspection of persons must be based on necessity both in freedom and at detention houses. The living environment of detention facilities does not require a specific inspection of the health of detained persons. It also has to be taken into account that detainees are under constant monitoring at detention facilities and presumably stay there for a short period of time and, above all, the availability of emergency care must be ensured to them. Prior to placing a detained person in a cell, the detention house officer assesses the health of the detained person by external observation and, if possible, by interviewing the detainee, and draws up a preliminary health inspection report concerning the health condition of the person. The report is added to the personal file of the detainee. The format of the preliminary health inspection report is established by the Director General of the Police and Border Guard Board. If the detained person complains about health problems (or says that treatment/medicine has been prescribed to him or her by a doctor), for handling which the officer has no competence (excl. headache, light fever etc) or if the officer determines (visually or by communication) in the course of regular monitoring of detainees at the detention house or upon admission to the detention house that the detained person needs a medical inspection, the detention house will organise the medical inspection of the detainee either at the detention house or at a healthcare service provider (subsection 10(3) of the Internal Rules of Procedure of Detention Houses). It must be possible for detainees to report health problems to the employees of the detention house round the clock. If the detention house does not have a 24h healthcare employee, the detention house officer must independently assess how urgently the detainee has to be taken to a healthcare service provider for a medical inspection. It must be determined in the course of the medical inspection, whether the person needs to undergo additional tests or to be sent to a medical specialist etc. The doctor or healthcare employee providing services at the detention house issues the relevant referral. The provision of healthcare services must be documented by the provider of healthcare services in accordance with section 4<sup>2</sup> of the Health Services Organisation Act. Employing a doctor is not generally expedient in smaller detention houses (subsection 52(1) of the Imprisonment Act and paragraph 40(2) of the Health Services Organisation Act also stipulate the requirement for activity licence for the provision of healthcare services). Furthermore, it is not proportionate to furnish doctor's offices with the tools and equipment necessary for conducting thorough medical inspections at smaller detention houses (the largest detention house has up to 100 places and smaller detention houses have less than 10 places, while the average number of places in prisons is 900). A doctor needs special devices and equipment for conducting medical inspections. In the absence of such equipment, the doctor is forced to send the detained person to a provider of healthcare services, which renders the inspections performed at the detention house pointless. An officer can also provide a preliminary assessment. Furthermore, the possibility of concluding an agreement with a service provider to organise doctor's visits to detention houses in a given area is not guaranteed (and even if it is possible, there is still the need to furnish a doctor's office). Medical inspections do not necessarily have to be conducted at the detention house and it does not necessarily have to be a doctor who provides the preliminary assessment of the health of detainees. The main argument for performing medical inspections at detention houses is the reduced need to transport detainees and thereby also a smaller risk of escape (at certain volumes, the transport costs of detainees may exceed the costs of furnishing a doctor's office – finding the most expedient solution is up to the particular detention house). Medical inspections do not necessarily have to be conducted at detention houses and the work of a detention house can be organised in such a manner that there is no need for an in-house doctor or healthcare employee at the detention house.

All the employees of the Police and Border Guard Board, incl. contractual healthcare employee, are aware upon the discovery of an offence committed by an employee of the Police and Border Guard Board (abuse in the case in question), notice thereof must be given to the Internal Audit Office that is tasked with conducting proceedings in order to determine all the circumstances, incl. initiating criminal proceedings directed by a prosecutor, if necessary.

- ***the Estonian authorities to ensure without further delay that all persons detained by the police - for whatever reason - are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information upon apprehension, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person's rights in a straightforward manner. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case (paragraph 27).***

Pursuant to the applicable legal order, the rights of detainees are explained to them as of the moment of taking their freedom (both orally and in writing). The relevant procedure is repeated upon arrival to the detention facilities and the detained person confirms with his or her signature that he or she is familiar with his or her rights and obligations. Thus, the rights and obligations of a detainee are repeatedly explained to detainees prior to their placement in a cell.

A so-called 'rights information package of ' has been prepared for detainees, which contains explanations concerning the detainees' rights and obligations and references to various rights of appeal. The said document has been translated into Russian and English.

We are of the opinion that the wording of the rights information package must be easy to understand and therefore we consider it necessary to review it and translate into the languages more common among detainees.

#### Comments

- ***the right of access to a lawyer must also apply during any period of initial police questioning (paragraph 23);***

Pursuant to § 34 of the Code of Criminal Procedure, a suspect has, among other things, the right to the assistance of a counsel; to confer with the counsel without the presence of other persons; to be interrogated in the presence of a counsel. A person obtains these rights from the moment of being declared a suspect and these rights shall apply to all his or her interrogations as a suspect.

- ***the Estonian authorities are requested to review the procedures at Rakvere Detention House in respect of initial medical screening and regular monitoring of detained persons, in the light of the case described in paragraph 26 (paragraph 26).***

In the case that took place in the Rakvere detention cell of the East Prefecture, a healthcare employee (ambulance staff) inspected the health condition of the detainee on the day of detention and a relevant note has been entered in the detention report. The said report states that the detained person received first aid: stitches to the left eyebrow, plasters of the left ear and the registration of swelling under the right eye. On the second day after detention, a healthcare employee additionally checked the health of the detainee and did not detect any health related problems. The detainee himself did not tell the healthcare employee of his alleged health problems. The claim that the detainee was not checked by a healthcare employee and did not receive medical care is therefore groundless. It was determined upon the review of the video recordings of the Rakvere cell that the duty officer checked the detainee placed in the cell visually once in every hour through the observation window in the cell door. No disciplinary proceedings have been conducted in this case.

### Requests for information

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

Pursuant to § 34 of the Code of Criminal Procedure, a suspect has, among other things, the right to the assistance of a counsel; to confer with the counsel without the presence of other persons; to be interrogated in the presence of a counsel. A person obtains these rights from the moment of being declared a suspect and these rights shall apply to all his or her interrogations as a suspect.

If a person would like a counsel to be appointed by the state, then a counsel shall be appointed at the request of an investigative body, Prosecutor's Office or court by the Estonian Bar Association. A counsel may participate in criminal proceedings as of the moment when the person is declared suspect.

Legislation provides a counsel with opportunities and rights in regard to meeting the person being defended and efficiently participating in criminal proceedings. The state does not get involved in the process of appointing a counsel. It takes place in the Estonian Bar Association.

## 2.4 Conditions of detention

### Recommendations

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

The premises are designed and built in accordance with privacy requirements and safety and security requirements. We consider it very important to ensure that hygiene related procedures can be performed out of sight of other persons, and the relevant works are included in the repair plans and will be carried out at the first opportunity.

- ***the Estonian authorities to pursue their efforts to provide appropriate conditions of detention at Tallinn Detention House. This should involve measures to ensure that:***
  - ***the official occupancy levels of cells provide for at least 4 m<sup>2</sup> of living space per person in multi-occupancy cells (not counting the area taken up by in-cell toilets);***
  - ***cells have access to natural light as well as adequate artificial lighting (i.e. sufficient to read by, sleeping periods excluded) (paragraph 34);***
- ***steps to be taken at Tallinn Detention House to ensure that the in-cell toilets are fully partitioned (i.e. from floor to ceiling) (paragraph 34);***

We agree with the opinion of CPT that detention conditions must be such as to ensure the health and welfare of the detained person. We note that the improvement of the detention conditions is a long-term process, which also depends on the availability of financial resources. We are making our best efforts in order to find the financial resources for improving detention conditions at detention houses. Lighting and overall detention conditions at detention houses are being gradually improved

- ***the Estonian authorities to take measures to ensure that remand or sentenced prisoners held in police detention houses are offered at least one hour of outdoor exercise every day in facilities of adequate size and possessing the necessary equipment (e.g. a shelter and means of rest). Anyone detained for 24 hours or more should be offered outdoor exercise every day (paragraph 36);***

Pursuant to subsection 31(2) of the Internal Rules of Procedure of Detention Houses, a detained person is entitled, upon request, to stay at least one hour a day outdoors under guard, regardless of the duration of detention. We agree with the position of CPT that regular stays outdoors are necessary for every detainee in

the conditions of a detention house, where movement is restricted more than in prisons. The said right is currently being granted to detainees at detention houses with the limits of possibilities. If the right cannot be realised due to technical impossibility, all the detained persons in regards to whom the official procedures have been performed, and arrested persons who have been assigned to long-term arrest by court, are sent to other detention houses that meet the requirements.

- ***all cells in the City Centre, East and South Police Stations in Tallinn to be equipped with a means of rest and no cell measuring less than 5 m<sup>2</sup> to be used for overnight accommodation (paragraph 37);***

Detention cells without beds are used for short-term detention during the performance of official procedures (due to operative needs also at night). The said cells are not intended for long-term detention. If the active performance of official procedures in regards to the detainee is finished, the detainee is placed in a cell with proper furnishings.

- ***steps to be taken to ensure that all persons who are held in police custody overnight are provided with a clean mattress (paragraph 38);***

A mattress is issued to the persons placed in a detention house or a house for recovering from intoxication. In cells intended for short-term detention, equipment for night-time accommodation is issued as necessary.

The cells intended for recovery from intoxication generally do not have beds and the detained persons sleep on the floor. In such case, the cells have floor heating. If there is no floor heating, there are beds or bunks. The persons detained for recovery from intoxication are released after 24 hours at the latest and therefore it is not possible for them to spend two consecutive nights at a police facility.

- ***the Estonian authorities to immediately withdraw from service the three waiting cells at Narva Police Department (paragraph 39).***

The old building of the Narva police department of the East Prefecture was shut down on 30 January 2013.

#### Comments

- ***the Committee trusts that Cells K1 and K2 at Narva Detention House will never be used again to accommodate a detained person, even for a short period of time (paragraph 30);***

The old building of the Narva police department of the East Prefecture was shut down on 30 January 2013.

- ***the CPT trusts that the requirement that in-cell toilets be fully partitioned will be met in the context of the construction of new detention houses (including Narva Detention House) and refurbishment of existing ones (such as Haapsalu Detention House) (paragraph 34).***

- We agree with the opinion of CPT that detention conditions must be such as to ensure the health and welfare of the detained person. We note that the improvement of the detention conditions is a long-term process, which also depends on the availability of financial resources. We are making our best efforts in order to find the financial resources for improving detention conditions at detention houses. Lighting and overall detention conditions at detention houses are being gradually improved.

Requests for information

- ***the progress of refurbishment of the existing police detention facilities, including the timeframe for these works (paragraph 28);***
- ***confirmation of the entry into service of the new detention houses in Kuressaare and Narva (paragraph 28);***

A new detention cell of the West Prefecture was opened in Kuressaare in August 2012. A new detention cell was opened in Narva on 30 January 2013.

According to the plans of the authority managing the buildings (Riigi Kinnisvara AS), the detention houses currently in use will be renovated and the urgent works performed in the second half of 2013 and in 2014. The planned dates of completion of new buildings are as follows: North Prefecture detention house 2018-2019, Võru detention house 2015, Pärnu detention house 2016-2017, Haapsalu detention house 2018-2019.

- ***a detailed account of the envisaged renovation work at Haapsalu Detention House, including a description of the planned cellular accommodation, outdoor exercise facilities, etc. (paragraph 32).***

In 2012, two cells of the Haapsalu detention house of the West Prefecture were thoroughly repaired (which included the improvement of lighting, ventilation and heating systems). The following repair works are planned for the nearest future (2013-2014): a store room for the detainees' personal belongings and bed-linen, a walking yard, windows for five cells, modern doors for cells.

### 3. ESTABLISHMENTS UNDER THE AUTHORITY OF THE MINISTRY OF JUSTICE

#### 3.1 Preliminary remarks

##### Recommendations

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

§ 6 (6) of the Regulation of the Minister of Justice no. 72 of 30.11.2000 "Internal Rules of Prison" states that each imprisoned person shall have at least 2.5 m<sup>2</sup> of floor space in a room or cell. As of 01.01.2014, amendments of the Internal Rules of Prison shall enter into force which provide each prisoner with at least 3 m<sup>2</sup> of floor space in a cell (except in open prison). The minimum floor space of 4 m<sup>2</sup> will be provided once the Tallinn Prison is completed.

##### Comments

- ***the Estonian authorities are encouraged to pursue vigorously their efforts to combat prison overcrowding, by placing particular emphasis on non-custodial measures in the period before the imposition of a sentence, increasing the use of alternatives to imprisonment and adopting measures facilitating the reintegration into society of persons deprived of their liberty, In this context, they should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation Rec (99) 22 concerning prison overcrowding and prison population inflation, Recommendation Rec (2000) 22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole), Recommendation (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules (paragraph 44);***

Please note that pursuant to the requirements of judicial practice, taking into custody and extension of the term of holding in custody shall always be reasoned. Upon submission of an application for an arrest warrant, a prosecutor must state the bases for taking a person into custody in that specific case and why the person should be taken into custody. Upon making a decision on taking someone into custody, the court, in turn, shall give reasons in regard to their decision and, upon deciding to allow someone to be taken into custody, also explain why other preventive measures that interfere with the rights of the person less are not sufficient. The Code of Criminal Procedure provides bail and electronic surveillance as alternatives to taking into custody. Upon imposition of punishment, the court must consider the potential alternatives. Upon sentencing imprisonment, there is a possibility to suspend a sentence and subject the person to supervision of conduct and probation. Also the court may substitute imprisonment with electronic surveillance or addiction treatment in some cases. Thus we believe that the state has taken legislative and other measures to carry out the aforementioned recommendations.

- ***appropriate action should be taken vis-à-vis the law enforcement agencies and prosecutorial and judicial authorities with a view to ensuring their full understanding of - and support for - the policies being pursued, thereby avoiding counterproductive pre-trial custody and sentencing practices (paragraph 44).***

Periodic trainings are carried out introducing law officers, including prosecutors and judges, developments and goals regarding amendments of laws and policies.

### **3.2 Ill-treatment**

#### Recommendations

- ***a clear message to be delivered to prison staff at Tallinn and Viru Prisons that all forms of ill-treatment of inmates, including verbal abuse and the excessive use of force when dealing with incidents, are not acceptable and will be punished accordingly (paragraph 45);***

We would like to point out that it is important to understand here that a prison officer is entitled by law to use force if necessary. In some cases, for example, to ensure the execution of legal orders or in order to combat an attack, the official shall be obligated to use force. Misuse of force is unacceptable in any case. The Prison Service strictly disapproves of verbal and physical abuse (incl. the excess use of force when dealing with incidents) of prisoners by officers. Prison officers are aware of the inadmissibility of abuse but if regardless of that abuse should occur, the matter is handled very thoroughly. In such cases an investigation is carried out and those at fault are punished. This way the Prison Service delivers a clear message that the abuse of imprisoned persons is not acceptable in the Prison Service.

Legislation also sends a clear signal that inmates are to be treated in a manner that respects human dignity and any abuse shall be punished. § 4<sup>1</sup> (1) of the Imprisonment Act prescribes that prisoners, persons in detention after service of the sentence, detained persons or persons in custody are treated in a manner that respects their human dignity and ensures that their serving of the prison sentence, being held in detention after service of the sentence or in custody, does not cause them more suffering or inconvenience than that inevitable associated with detention in prisons or houses of detention. The prohibition to abuse also arises from Directive of the Minister of Justice no. 176 of 13.11.2008 „Code of Ethics of Prison Officer“. This is a source document of the code of conduct of prison officers which shall be followed in prison and outside thereof, in Estonia as well as abroad. The inadmissibility of abuse of imprisoned persons arises from Section 2.3 of the Code of Ethics of Prison Officer which states that a prison officer shall treat imprisoned persons and probationers lawfully and shall do everything in his or her power to prevent physical and mental abuse of them by other officials. § 291 of the Penal Code provides that an official who unlawfully uses a weapon, special equipment or violence while performing his or her official duties is punishable by a pecuniary punishment or by 1 to 5 years' imprisonment.

The Prison Service has by different means ensured that officials be aware of the prohibition to use and the unacceptability thereof by the Prison Service:

1) All of the prison officers have usually graduated from a prison officer programme of an institute of higher education or completed the respective year-long curriculum of a vocational education institution, or undergo it within a few years as of commencement of work in the Prison Service. In the vocational and higher education programmes, the aforementioned topics, from how to politely address an inmate in a letter of reply to the solution of various legal situations, are discussed in various subjects. The topics relating to the prohibition of ill-treatment are discussed more thoroughly in the subjects „Human and Fundamental Rights in Prison“, „Professional Ethics“ of the curriculum of higher education institution and in the subjects „Module of Basic Professional Skills“, „Professional Ethics of Prison Officer“, „Imprisonment Law and the Prison Organisation“, „Communication and Conflicts in Prison“ of the curriculum of vocational educational institution. In-service training is provided for officers as needed.

2) The Department of Prisons of the Ministry of Justice has created educational films exhibiting the right and wrong conduct of officers case by case. The main function of the film is to explain visually and audibly which kind of conduct is legally correct and ethical. The film was made with the help of Professor Jaan Sootak, one of the best specialists in criminal and penal law in Estonia.

3) The Ministry of Justice publishes a magazine „Vangla Ekspress“ („Prison Express“) the articles in which aim to give information to prison officers and provide feedback on how a prison officer should behave in a certain situation or which kind of behaviour should be avoided. Moreover, the magazine publishes articles on prison officers who have been punished pursuant to criminal procedure, incidents that brought about such punishment and the prohibition on abuse in general.

4) A new prison officer is obliged to undergo the New Employee Information Day where, among other things, it is discussed that an inmate should be treated with respect, that the abuse of power is prohibited, etc. Also, other information days organised for officials provide information on the prohibition to abuse, the incidents occurred, etc.

5) As a result of a discussion held with the Council of Guards, it has been decided that people in the prison system shall be addressed formally. An inmate shall address an official formally and vice versa. Such rule has been established in order to minimise the possibilities for verbal abuse.

6) Officers of the armed unit have use of force trainings every week which always include explanations on how to rightfully use force so that no excess injury or pain is caused as a result. Firearm training courses held every other week always include explanations on how and to what extent should a firearm be used so that protection would not turn into attack. The abovementioned unit performs extra hazardous duties that require preparation and quick responses and participates, for example, in the combating of mass disorders; rescuing of abducted people; combating of armed attacks against prison; saving of illegally occupied objects, etc.

– ***the Estonian authorities to take immediate steps throughout the prison system to ensure that officers of security departments no longer carry out investigations into alleged instances of ill-treatment by prison staff (paragraph 47).***

We are of the position that the current system where the Prison Service itself carries out investigations of the alleged ill-treatment cases is purposeful and productive. As the abuse of inmates has been fully disapproved by the Prison Service and the prevention and detection of such incidents is a priority for the Prison Service, they are highly motivated to investigate such matters as thoroughly, comprehensively and objectively as possible. Moreover, the Prison Service is able to use more resources for the investigation of such matters compared to the police who also have to investigate many other cases. Please note that incidents involving an officer of the Prison Security Department are investigated by the Internal Audit Division of the Department of Prisons of the Ministry of Justice.

We would also like to explain that the activities of prisons in investigations are transparent and audited by other authorities and bodies. Pursuant to § 1 (1) of the Prosecutor's Office Act, the Prosecutor's Office directs the pre-trial criminal procedure and ensures the legality and efficiency thereof, and represents public prosecution in court. This means that the entire pre-trial investigation carried out by a prison shall be supervised by the Prosecutor's Office. Should the Prosecutor's Office decide that the prison should not carry out the investigation, they have the right, based on the principle of purposefulness, to alter the investigative jurisdiction. If an application is filed with a prison for initiation of proceedings and upon primary investigation of circumstances (for example, upon reviewing video recordings) it becomes evident that there could not have been an abuse of authority, a decision on refusal of initiation of proceedings is prepared which shall be approved by the Prosecutor's Office. The decision on refusal of initiation of proceedings may be appealed. Pursuant to § 8<sup>1</sup> 6) of Regulation of the Minister of Justice no. 50 of 08.07.2003 "Statutes of Prison Wards", the function of the Internal Audit Division of the Department of Prisons of the Ministry of Justice shall be the administration of surveillance and criminal proceedings in prisons and the coordination of cooperation of prisons with other investigative and surveillance bodies. Therefore, all investigations carried out by security officers of prisons shall be approved by the Internal Audit Division of the Department of Prisons. Also it should be pointed out that inmates usually use their right to make a plea which enables them to inform the Prosecutor's Office, the court, the Chancellor of Justice, the Security Police Board, the press, etc. of the alleged abuse incidents in prisons who will investigate and elaborate the circumstances, if necessary.

Currently, officers of prison security departments perform internal audit related duties regarding the audit of officers as well as security duties regarding inmates. In terms of security officers, we consider whether it would be reasonable to divide duties so that some of the specialists are specialised in the security duties regarding inmates and the others on internal audit duties regarding officers.

- ***whenever a formal investigation is launched into allegations of ill-treatment of inmates by prison staff (or on the basis of other information indicative of possible ill-treatment), the staff members concerned should be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation (paragraph 47).***

Pursuant to § 141 (1) of the Code of Criminal Procedure, a suspect or accused shall be excluded from office at the request of a Prosecutor's Office and on the basis of an order of a preliminary investigation judge or on the basis of a court ruling if: 1) he or she may continue to commit criminal offences in case he or she remains in the office; 2) his or her remaining in the office may prejudice the criminal proceeding. Moreover, § 78 (1) of the Civil Service Act states that the person authorised to impose a disciplinary punishment has the right to exclude an official from service for the period of disciplinary proceedings. If an official has not been excluded from service for whichever reason and there is reason to believe that it is not a false accusation, the person shall be transferred to a position where he or she has no contact with imprisoned persons.

#### Comments

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

The Prison Service is highly interested in the prevention of inter-prisoner violence. We would like to point out the following measures that are implemented and which should contribute to the decrease of violence-related incidents:

- 1) Cells are searched regularly which enables to find any devices which may be used for assault or cutting and are thus potentially used in violence-related incidents;
- 2) Dangerous inmates are separated from others until the risk ceases to exist and counselling is provided to them, if necessary;
- 3) Upon occurrence of violence-related incidents, the respective proceedings shall be carried out and those at fault shall be punished;
- 4) Officers shall pay attention when interacting with inmates and notify the respective officials of any changes in the appearance, behaviour, etc. of inmates which may refer to violence;
- 5) At roll-calls the physical condition of inmates is visually assessed in order to establish possible external injuries.

Measures taken in S1 and S2 wards of Tallinn Prison:

- 1) In dorm-style Sections S1 and S2 the cell doors are locked for the night period in order to restrict the possibilities of interaction between inmates and thus cause incidents;
- 2) As of 01.01.2014, the floor space per inmate shall be increased in Tallinn Prison as a result of which there are less people in contact with one another which in turn decreases the likelihood of occurrence of violence-related incidents;
- 3) As of this year, Tallinn Prison reviews the activities of inmates who have had incidents of self-injury or other violence-related incidents;
- 4) The establishment of a new Tallinn Prison is in process where it will be considerably easier to ensure surveillance of inmates.

Measures taken in the Youth Ward of Tallinn Prison:

- 1) Viru Prison is the first prison in Estonia to aim to ensure solitary confinement in the Youth and Minors' Ward. The goal has almost been achieved by now;
- 2) In this ward, only half of the cells of inmates are open at the same time which enables to ensure more efficient surveillance;
- 3) So that officers would be able to detect injuries, young inmates are obligated to show their arms and upper body at roll-calls;
- 4) In order to prevent violence-related incidents, inspector/contact persons work with a psychologist who shall carry out individual sessions with youths who exhibit aggressive behaviour. A psychiatrist is consulted, if necessary;

- 5) After a violence-related incident has taken place, the victim shall be provided with psychological help and any need for further counselling shall also be established.

#### Requests for information

- ***Further information on specific proposals put forward with a view to preventing a recurrence of instances of abuse of authority by prison officers at Viru Prison (paragraph 45).***

In November of 2011, Directors of Estonian prisons decided to establish a working group for the investigation of violence-related incidents. The working group consists of a representative of each prison and three officials from the Ministry of Justice. The working group has formulated four topics to be analysed: Reasons for violence, experience and attitude so far, prevention and reaction; treatment of suspects.

The working group developed the following propositions which should minimise the occurrence of violence-related events in the Prison Service:

- 1) To transfer the officer in regard to whom there is a pending proceeding in the abuse of an inmate to a position where he or she has no contact with inmates;
- 2) To improve the internal communication of the prison after a violence-related incident;
- 3) To ensure psychological help and counselling to officers.

Explanations on transfer and communication have been provided in the sections above. In regard to psychological help and counselling we would like to point out that today guards get professional psychological counselling once a year. Each guard gets a 90-minute counselling session. In addition, there is psychological counselling after every critical incident (in cases where guards have used force or they themselves have experienced violence by inmates or colleagues) for people who have participated in the event, and for other employees of the unit, if necessary, and if a guard applies for counselling.

#### - ***for the last 18 months:***

- ***the number of complaints of ill-treatment made against prison staff and the number of criminal/disciplinary proceedings which have been instituted as a result;***
- ***an account of criminal/disciplinary sanctions imposed following of ill-treatment by prison staff (paragraph 46);***

Proceedings of abuse incidents by prison officers are usually conducted on the basis of § 291 of the Penal Code which prescribes that an official who unlawfully uses a weapon, special equipment or violence while performing his or her official duties is punishable by a pecuniary punishment or by 1 to 5 years' imprisonment. When a criminal offence is reported, there are two options: 1) if upon primary investigation of circumstances (for example, upon reviewing video recordings) it becomes evident that there could not have been an abuse of authority, a decision on refusal of initiation of proceedings is prepared; 2) if after primary investigation of circumstances the offence cannot be ruled out for certain, criminal proceedings shall be initiated.

If abuse has occurred, it is an act punishable pursuant to criminal procedure. If abuse has not occurred, no proceedings are initiated or the proceedings initiated shall be terminated. Within the last 18 months, there have been only 3 disciplinary proceedings initiated in Tallinn Prison on the basis of a complaint of an inmate regarding abuse. In two of these cases, the proceeding was terminated after a conversation with the relevant official. There was no physical or verbal abuse established in the acts of the officers but it was deemed to be necessary to refer to the shortcomings in the work of the officers. In one of the cases the proceedings were terminated because the complaint was unsupported by evidence.

In 2012 there were 14 cases in which it was decided not to initiate criminal proceedings and 6 cases where criminal proceedings were initiated.

The criminal proceedings were initiated in the following circumstances presented in a criminal offence report:

1. An assistant inspector/duty officer of the Harku Prison Department of Harku and Murru Prison allegedly committed an abuse of authority on 23.05.2012 by using illegal physical force towards an inmate. As in the investigation it was established that the officer was entitled to use force for reasons arising from the behaviour of the inmate, the criminal proceedings were terminated due to the lack of necessary elements of the criminal offence.
2. A guard of the Murru Prison Department of Harku and Murru Prison allegedly committed an abuse of authority on 03.09.2012 by using illegal physical force towards an inmate. As in the investigation it was established that the officer was entitled to use force for reasons arising from the behaviour of the inmate, the criminal proceedings were terminated due to the lack of necessary elements of the criminal offence.
3. A guard of Tartu Prison allegedly used illegal physical force towards an inmate on 01.09.2012 around 06.30 a.m. As in the investigation it was established that the officer was entitled to use force for reasons arising from the behaviour of the inmate, the criminal proceedings were terminated due to the lack of necessary elements of the criminal offence.
4. On 07.06. 2012 at 8.50 a.m., a senior guard of Viru Prison allegedly forced an inmate's hand in the door of a food hatch. Upon investigation, it was determined that the inmate's hand got stuck in the door due to the actions of the inmate himself. No elements of criminal offence were established and thus the criminal proceedings were terminated.
5. On 18.10.2012 from 6.34 to 6.35.39 p.m., a senior guard of Tallinn Prison allegedly misused public authority by using pepper spray in several occasions without good reason and by dragging an inmate along the corridor floor. As in the investigation it was established that the officer was entitled to use force for reasons arising from the behaviour of the inmate, the criminal proceedings were terminated due to the lack of necessary elements of the criminal offence.
6. On 20.12.2012, officers of Tallinn Prison allegedly used excess physical force towards the applicant. The criminal proceedings in this matter are pending.

In 2013, no criminal proceedings have been initiated on the grounds of § 291 of the Penal Code. There have been 12 decisions on refusal to initiate criminal proceedings in 2013.

- ***observations on the role which can be played by the contact officer assigned to each individual inmate in tackling the problem on inter-prisoner violence (paragraph 49).***

An inspector/contact person communicates with inmates regularly while trying to resolve any issues or problems that may arise as a result of staying in prison. Inspector/contact persons, as well as other prison officers, have been instructed and trained to notice changes in the appearance, behaviour, etc. of inmates which may refer to potential conflicts or problems. Conflicts and misunderstandings are resolved in cooperation with other officers and departments, incl. psychologists and the Security Department. Should it be unnecessary to initiate criminal or misdemeanour proceedings on an incident between inmates, an inspector/contact person shall conduct disciplinary proceedings. With initiation of disciplinary proceedings, inmates are sent a clear message that violence is unacceptable and an offender shall be punished. The first priority is to ensure the security of the inmate who reported the violent act committed in regard to him or her. If necessary, inmates are placed elsewhere in order to ensure a peaceful environment.

### **3.3 Tallinn Prison**

#### Recommendations

- ***the minimum standard of living space per prisoner to be raised to 4m<sup>2</sup> (not counting the area taken up by any in-cell toilet facility) at Tallinn Prison by 1 January 2015, if the establishment is still in service at that time (paragraph 53);***

§ 6 (6) of Regulation of the Minister of Justice no. 72 of 30.11.2000 "Internal Rules of Prison" prescribes that each imprisoned person shall be entitled to at least 2.5 m<sup>2</sup> of floor space in a room or cell. As of 01.01.2014, amendments of the Internal Rules of Prison are going to enter into force which prescribe that each imprisoned person shall be entitled to at least 3 m<sup>2</sup> of floor space in a cell (except in open prison). The minimum of 4 m<sup>2</sup> shall be established by no later than after the completion of the new Tallinn Prison.

- ***the Estonian authorities to ensure the detention areas, related sanitary/washing facilities and outdoor exercise areas are maintained in – and as necessary restored – to satisfactory state of repair and hygiene (paragraph 53);***

We would like to explain that as the new Tallinn Prison is being planned, there are no possibilities to invest large sums into the repair of the old Tallinn Prison as there are not enough resources for both. Repairs are done as necessary, in order to ensure satisfactory conditions in the prison. For example, for the year 2013, the following repair works have been scheduled in the buildings of Tallinn Prison: 1) repair of electric systems and renovation in the cells of E1 and E2 in the sum of 40,000 euro; 2) repair of lighting in K1 in the sum of 7,000 euro; 3) construction of roofs for walking rooms in K1 in the sum of 12,800 euro; 4) renovation of the toilet and bathroom of S1 and S2 in the sum of 15,000 euro; 5) renovation of corridors and stairways of S1 and S2 in the sum of 5,000 euro; 6) change of windows in S1 and S2 in the sum of 3,000 euro. Should there be an unexpected need for renovation or repair, it shall be done immediately and off-schedule. At the end of last year and at the beginning of this year, inmates in the S1 and S2 wards were allowed to do repairs in their own cells at the cost of the prison, e.g. to paint the walls.

- ***steps to be taken to ensure that all prisoners who need to use a toilet facility are able to do so without delay at all times, including at night (paragraph 54);***

Please note that in buildings E1, E2 and K1 of Tallinn prison, there are toilets in cells so the inmates in the cells of these buildings are free to use the toilet at any time. In buildings S1 and S2, there are no toilets in cells. In these buildings the cell doors are open during the day so inmates are free to use the toilet and bathroom until the commencement of the night time at 10 p.m. The closing of doors for the night period is extremely important in terms of security. Should an inmate wish to use the toilet at night, they'll inform a guard thereof by switching on the light above the cell door. The guards shall enable the inmate to use the toilet as soon as possible. In case of a medical indication, an inmate shall be placed in a cell with a toilet or a close stool shall be placed in the cell. All inmates shall be enabled to use the toilet at any time without any delays when the new Tallinn prison is completed.

- ***association periods with prisoners from other cells to be introduced for remand prisoners; if necessary, the relevant provisions of the Imprisonment Act should be amended (paragraph 55);***

§ 90 (3) of the Imprisonment Act states that a person in custody shall be lodged in a locked cell on a twenty-four-hour basis, except during the time when the person in custody is working or studying. Persons in custody who are accused in the same criminal matter shall be segregated. Such regulation has been established, first and foremost, in order to ensure proper conduct and efficiency of criminal proceedings. Please note that persons in custody in Tallinn Prison are usually placed in a cell with 4-6 other persons in custody who are able to communicate in the cell. Also, the architectural character of Tallinn Prison fails to support the creation of communication possibilities for persons in custody who live in different cells.

- **efforts to be made to enhance the programme of out-of cell activities for sentenced prisoners and in particular to provide work (preferably of vocational value) to larger number of them (paragraph 55);**

There are various social programmes for inmates in Tallinn Prison, e.g. anger management, social skills training, EQUIP, safe driving programme, domestic violence reduction programme, life style training, etc. The range of programmes provided for inmates is increased all the time, in order to ensure the achievement of the goals of imprisonment in the best possible way. If possible, several hobby groups are provided for inmates, e.g. music group, art group, etc.

The purpose of Tallinn Prison is to ensure that all inmates with the punishment after entry into force of the court judgment as at 1 January is longer than a year would be engaged in the acquisition of general or vocational education, participation of state language course, full or part time skilled or administration work. In Tallinn Prison effort is made to ensure that. The following numbers may be indicated to give an example:

- 1) In 2010, wages were paid to 160 inmates and in 2012 to 215 inmates;
- 2) In 2010 Estonian language course was completed by 69 inmates and in 2012 by 178 inmates;
- 3) In the school year of 2011/2012, 13 inmates studied in basic school and in the school year of 2012/2013 26 inmates studied in basic school;
- 4) In the school year of 2011/2012, 6 inmates studied in high school and in the school year of 2012/2013 17 inmates studied in high school;
- 5) In the school year of 2011/2012, 12 inmates studied in vocational school and in the school year of 2012/2013 55 inmates studied in vocational school.

- **the Estonian authorities to take Block K1 out of service without delay (paragraph 57);**

We would like to point out that considering the possibilities in Tallinn Prison, it is impossible to take Building K1 entirely out of service. Tallinn Prison does its best to ensure livable conditions in the cells of Building K1, e.g. construction of roofs for walking rooms, improving the lighting, etc. Inmates are not placed in cells in poor condition. For example, inmates are no longer placed in cells 76 and 85. Also, the cells of Block K1 are now mostly single cells.

- **juveniles temporarily placed at Tallinn Prison to be accommodate in facilities which fully respect their physical and mental integrity (paragraph 58);**

There are practically no minor inmates in Tallinn Prison. Only on few occasions, they have been brought in for a short period of time, for example in regard to appearance in court. During the CPT visit, minor inmates were placed alone in a regular cell of Building E1 or E2, but sometimes in a cell of Building K1. In this regard, Tallinn Prison has changed its practices and currently, the placement of minor inmates in cells of Building K1 is no longer practiced.

- **the Estonian authorities to take steps to ensure that female prisoners are held in accommodation which is physically separated from that occupied by male prisoners (paragraph 59);**

In Building E2 of Tallinn Prison the cells of male prisoners are located in one part of the ward and the cells of female prisoners in the other part of the ward. Due to limited opportunities of Tallinn Prison, female prisoners cannot be provided with an entire ward. Although there are cells for female as well as male prisoners in a single ward, they have no physical contact with one another. Prisoners have not provided with any free time to interact with other people in the ward. One can only communicate with prisoners in the same cell as him or her. Also, situations where male and female prisoners may be in the corridor at the same time are avoided.

- **association periods with prisoners from other cells to be introduced for the female remand prisoners (paragraph 59);**

§ 90 (3) of the Imprisonment Act states that a person in custody shall be lodged in a locked cell on a twenty-four-hour basis, except during the time when the person in custody is working or studying. Persons in custody who are accused in the same criminal matter shall be segregated. Such regulation has been established, first and foremost, in order to ensure proper conduct and efficiency of criminal proceedings. Please note that persons in custody in Tallinn Prison are usually placed in a cell with 4-6 other persons in custody who are able to communicate in the cell. It should also be considered that female prisoners are held

in the same ward as male prisoners, which is why it would be difficult to introduce association periods with female prisoners from other cells. Also, we'd like to point out again that the architectural character of Tallinn Prison fails to support the creation of communication possibilities for persons in custody who live in different cells.

- ***the Estonian authorities to ensure that female prisoners have access to adequate quantities of essential hygiene products (paragraph 60).***

Please note that prisoners are allowed to go to the prison shop at least once a month, and a prisoner can obtain anything he or she might need from the shop. One may buy toothpaste, intimate wash, shampoo, sanitary towels, deodorants, etc. Toilet paper is provided for all inmates at the cost of the prison. For least privileged inmates, the prison issues, based on an application of the inmate, a sanitary pack which contains a bath soap, laundry soap, toothpaste, toothbrush, disposable razor blades and sanitary towels for female prisoners. One may ask for extra, if necessary. Thus, it becomes evident that all inmates have access to primary toiletries.

#### Comments

- ***steps should be taken to ensure that remand prisoners at Tallinn Prison are aware of the programmes available (paragraph 52);***

An inspector-contact person informs a person in custody of the programmes provided for him or her. The fact that some of the prisoners were unaware of the programmes provided for them during the CPT visit may have been caused by that fact that these prisoners had arrived in the prison recently and programmes for them had not been set up yet.

- ***the Estonian authorities are invited to allow prisoners more frequent access to shower facilities, taking into account Rule 19.4 of the European Prison Rules (paragraph 53 and 60).***

§ 50 (2) of the Imprisonment Act states that prisoners shall be given the opportunity to have a sauna, bath or shower at least once a week and upon reception into prison. In Tallinn Prison the use of shower is provided according to the means of the prison but no less than the minimum set forth by law. Inmates that are working are allowed to have showers more frequently. All inmates are provided with daily access to clean running water which enables primary hygiene, e.g. brushing one's teeth, washing hands, face and feet. In case of hot weather, the prison makes an effort to enable inmates to take showers more frequently than once a week.

### 3.4 Viru Prison

#### Recommendations

- ***the Estonian authorities to take the necessary measures to ensure that all cells at Viru Prison are adequately ventilated at all times of the year (paragraph 62).***

There is forced ventilation in all cells of Viru Prison (intake and exhaust air flows) which ensures the amount of air that is in conformity with the requirements. In all residential buildings, in the period of 02.05.2012-21.06.2012, measurements were carried out and the results are in conformity with the standard of EVS-EN 12599:2000 „Ventilation for buildings – Test procedures and measuring methods for handling over installed ventilation and air conditioning systems“. In case of exceptionally hot weather, several measures are taken which were explained by the management of the prison to CPT and which were pointed out by CPT in its final report. There may be various reasons why the inmates were unaware of the measures implemented.

- ***all outdoor exercise yards at Viru Prison to be equipped with a means of rest and shelter (paragraph 63);***

As at March 2013, 45 of the 46 walking yards are equipped with a bench. Roofing of the walking yards is not planned as the walking yards have metal or concrete rims which enable inmates to seek shelter from sun and rain.

- ***the Estonian authorities to take steps, as a matter of urgency, to radically improve the regime activities for remand prisoners at Viru Prison. The aim should be to ensure that such prisoners are able to spend a reasonable part of the day outside their cell, engaged in purposeful activities of a varied nature (paragraph 64);***

Viru Prison provides several activities for out-of-cell activities. For example, in 2012, 23 persons in custody underwent a language course. As at the end of May of 2013, 14 persons in custody have undergone the language course this year, and currently 4 persons in custody are taking the language course. In regard to social programmes, the prison aims to provide the programmes for as many persons in custody as possible, but not for less than 30 persons. In 2012, for example, social programmes were undergone by 39 persons in custody. This year, there are 16 persons in custody that have undergone a social programme "Life-style Training", there are currently 14 persons in custody participating in an anger management course (the programme ends on 25.06.2013). The goal this year is to carry out the programme "Improvement of Social Skills" and other programmes, if necessary and possible.

As of 2013, there is a specific treatment model for persons in custody diagnosed with drug addiction. The principles of the treatment model are implemented in the cooperation of specialists in various fields – a psychologist, probation officer, chaplain, family nurse and inspector/contact person. The work with addicts is carried out individually as well as in a group, and they are additions to the aforementioned programmes. Moreover, the prison involves in the implementation of the treatment model external partner organisations who specialise in drug rehabilitation. As of the beginning of this year to 27.05.2013, 33 persons in custody with a drug addiction diagnosis have been or are being intensely dealt with.

In Viru Prison persons in custody are enabled to work. In 2012, there were 23 persons in custody who were engaged in administration works. In 2013, there are 22 persons who have been engaged in work until now. Also persons in custody with no basic education are able to acquire it in the general education school. Currently, there are 3 persons in custody participating in studies. Persons in custody are also provided a state language course. In 2012, there were 28 persons in custody who participated in the state language course. In 2013, there have been 16 persons in custody who have been participated in the state language course. New groups are put together in the second half of 2013. The prison also provides hobby groups for persons in custody which involve painting, clay modelling and watching movies including analysis and discussion. There are currently 10 persons in custody participating in the groups.

- ***the Estonian authorities to take steps to ensure that collective punishments are not applied in the juvenile ward at Viru Prison (paragraph 72);***

Pursuant to the second sentence of § 63 (3) of the Imprisonment Act, it is prohibited to impose collective disciplinary sanctions. Thus it is self-evident that they are not implemented at the Minors' Ward of Viru Prison.

It is possible that when talking to CPT, the minors considered the temporary locking of the ward as a collective punishment. However, this has nothing to do with the punishment of inmates. § 8 (2) of the Imprisonment Act prescribes that in the event of justified need, a prison service may lock prison wards and cells or lodge prisoners temporarily in other rooms in a time other than prescribed in subsection (1) of this section if this is necessary for ensuring security in the prison or prevention of unlawful behaviour of a prisoner. We would like to point out that wards or cells are locked only in case of a justified need and for as short of a period as absolutely necessary. For example, a ward may be locked for the period of carrying out necessary repairs, in order to establish circumstances upon detection of bodily injuries or other serious offences, etc. The second sentence of the abovementioned provision prescribes that such decision shall be made in writing. Please note that the written decision is introduced to the inmates placed in the respective ward. Inmates may appeal this decision.

- **relevant authorities to carry out a full review of the food provided to juveniles and young offenders at Viru Prison in order to ensure that it is sufficient not only in terms of quality but also in terms of quantity (paragraph 73);**

The specific requirements for food provided for inmates have been prescribed in Regulation of the Minister of Social Affairs no. 150 of 31.12.2002 "Dietary in Custodial Institution" and upon alimentation, Viru Prison is guided by this regulation. Inmates are provided alimentation three times a day, and the menu has been compiled pursuant to the regulation keeping in mind that inmates are ensured with healthy and nutritious food which is in conformity with the requirements in terms of quality as well as quantity.

The Medical Departments checks the quality of food before every meal by tasting it, in order to prevent the provision of poor quality food to inmates. Entries on food quality are made electronically by a nurse in charge. The Health Board carries out random inspections of the alimentation of inmates. The last inspection of the Health Board on the dietary was on 16.01.2012. There were no reprimands to the prison. Twice a year, a food sample is taken for bacteria testing and the quality of water is inspected once a year. Alimentation in prison wards is inspected by guards who accompany servers. The food is weighed before alimentation pursuant to the menu to prevent inmates getting less food than indicated in the menu. There may be several reasons why inmates reported weight loss upon arrival in the prison. Generally, however, weight loss is not a health risk but rather a situation where the weight of a person who has eaten irregularly before starts to normalise as a result of regular and healthy eating.

- **the Estonian authorities to carry out a full review of the use being made of solitary confinement as a disciplinary sanction at Viru Prison with a view to ensuring that it is only imposed exceptionally as a measure of last resort, is proportionate to the offence committed and is applied for the shortest possible period of time (paragraph 76).**

§ 63 (1) of the Imprisonment Act states that an inmate may be imposed of the following disciplinary punishments in the order of severity: 1) reprimand; 1<sup>1</sup>) prohibition of the use of a personal radio, television set or other necessary electrical equipment for up to 45 days; 2) prohibition of one short or long-term visit; 3) removal from work for up to one month; 4) commission to a punishment cell for up to 45 twenty-four hour periods (young prisoners may be committed to a punishment cell for up to 20 twenty-four hour periods). We would like to explain that in prison each offence is considered a separate offence proceedings in regard to which are conducted pursuant to legislation and a proportional punishment is imposed, if necessary. Only one disciplinary punishment may be imposed for a single offence. The commission to a punishment cell is only imposed in the event of the most aggravated offences. A larger number of days in a punishment cell are usually imposed in the case of an aggravated offence, provided that the person has committed similar offences repeatedly. The prison is allowed to decide not to punish the person which is done in many cases. In such occasion, there is a disciplinary conversation with the person which should motivate the person to take up law-abiding behaviour.

Pursuant to § 54 of the Administration Procedure Act, proportionality is one of the preconditions for lawfulness of an administrative act. In the directive imposing a disciplinary punishment, reasons are given for the selection of the punishment, its adequacy and purposefulness. Should the inmate disagree with the term of punishment, he or she has the right to challenge the directive imposing the disciplinary punishment at first in prison and thereafter in court. In such occasion, the proportionality of punishment is also assessed in the challenge and court proceedings. Courts have annulled directives imposing disciplinary punishments in court proceedings but generally not for the reason of punishments being disproportionate.

If a person has committed several offences for which he or she has been commissioned to a punishment cell, then he or she has to stay in the punishment cell regime for a longer period of time. Should a person act law-abidingly and not commit any offences, he or she shall not be commissioned to a punishment cell and he or she has no obligation to spend time there. A punishment following an offence shall motivate the person to refrain from committing offences in the future. If a person has committed a similar offence repeatedly, it may be concluded that the punishment imposed was insufficient. A prison may not decide to not react to disciplinary offences as this would imply that offences are allowed.

### Comments

- ***in the context of future construction/renovation of penitentiary establishments, it would be desirable for it to be possible to open a part of cell windows (paragraph 62);***

The existence of openable windows in the cell endangers the prison security. In case of openable windows, the possibilities for unauthorized communication and exchange of objects between prisoners increase. Forced ventilation system (inlet and outlet) is ensured in all cells of the Viru Prison that guarantees the quantity of air complying with the requirements for accommodation which conform to standard EVS-EN 12599:2000 "Ventilation for buildings – Test procedures and measuring methods for handling over installed ventilation and air conditioning systems", wherefore the prisoners do not have to open windows.

- ***the Estonian authorities are invited to rethink the design of outdoor exercise facilities; in particular they should be sufficiently large to allow prisoners to exert themselves physically and, as far as possible, be located at ground level (paragraph 63);***

We find that it is not necessary or expedient to build bigger exercise areas or using just the ground level exercise area at the Viru Prison. At the Viru Prison, three residential buildings (S7, S8, S9) each have exercise areas of 164.6 m<sup>2</sup> on the roof in both ends of the building. At most 40 prisoners are taken for a walk at a time. There are exercise areas of 22 m<sup>2</sup> on the roof of Building E where two prisoners (from the reinforced supervision ward) or five prisoners (from E5 ward) are walking at a time. The size of exercise areas at ground level which are located next to Building E is 16.1 m<sup>2</sup> where five prisoners are taken for a walk at most. There are five exercise boxes of 15 m<sup>2</sup> at ground level in the courtyard of Building P where at most two prisoners walk at a time. The size of the exercise area of open prison is 2100 m<sup>2</sup> containing the stadium of 400 m<sup>2</sup> with basketball boards and outdoor fitness equipment and benches. We find that the prisoners have sufficient space for walking and exercising.

- ***the CPT trusts that efforts will continue to be made to ensure that all sentenced prisoners at Viru Prison have access to an appropriate range of work (preferably with vocational value), educational, sport and recreational activities (paragraph 64);***

According to possibilities and needs, the increase of employment, education, sports and entertainment possibilities is continued. We note that the prison continues to organize several hobby groups (art group, music groups, etc.) and recreational events (family days, concerts, sports events, etc.).

Social programmes were carried out for 358 convicted offenders. In 2013, the scopes of social programmes have generally remained on the same level in comparison with 2012 but these are currently planned according to risk-based needs. Thus, should it become evident that a larger number of prisoners have to be involved in the programmes, this will be done.

As for the official language courses, we note that all in all 225 prisoners completed different levels of official language studies in 2012 and in 2013 the Viru Prison has increased the number of official language study places by 50 places. At the same time, efforts are made, as much as it is possible, to provide the prisoners several training sessions and courses. For example, in 2012 the prisoners of the open prison ward were offered a housekeeping course for increasing the prisoners' coping skills which was attended by 12 prisoners. In 2013, it is planned to offer the same course to 24 persons. In 2013, a vocational training of cleaning services was organized for the prisoners of the reinforced supervision ward.

We also point out that a vocational education reform is being carried out in the prison in cooperation with the Ministry of Education and Research and the Ida-Viru Vocational Education Centre in course of which the number of study places will also increase. The duration of study programmes of vocational education provided will be made more flexible: currently existing 40-week and 80-week study programmes will be made into 12-week up to 16-week courses which will enable also the prisoners with a shorter term of punishment to acquire vocational education. The objective of the reform is also to make the opportunities for acquiring vocational education available all-the-year-round and not depending on the academic year. It is planned to open two courses with a shorter study programme on 1<sup>st</sup> June 2013.

Increasing employment is a priority for the prison which is actively contributed to. Different solutions are actively searched for in cooperation with the Estonian Prison Industries. As the first step it is planned to involve more prisoners in simpler assembly works. In April 2012, an agreement was concluded that existing tasks will be divided between a larger number of prisoners. Thereby the work load of employed prisoners may decrease but the number of prisoners involved in employment increases.

- ***the Estonian authorities are encouraged to further develop the programme of activities offered in the "Supermax" unit, taking into account the criteria set out in paragraph 68 (paragraph 68).***

The prison pays active attention in order to develop the activities offered in the reinforced supervision ward as far as possible. For example, a vocational training of cleaning services was organized in the said ward. The training took place from 15 April 2013 until 27 April 2013 (in terms of time - 80 hours). Ten prisoners started the training but the training was complete and the certificate concerning the completion of cleaning service training was given to two prisoners. We also point out the fact that working premises have been set up in both reinforced supervision wards as of now, where it is possible to do several works and employment is also offered to the prisoners as necessary.

More information about the activities which are currently available in the ward is found in the next clause.

#### Requests for information

- ***a description of all the activities currently on offer in the "Supermax" unit, with an indication of the number of prisoners involved in each of them and for how many hours per week (paragraph 68);***

As already indicated, due to the security risk the majority of activities planned for the prisoners of reinforced supervision unit have to be carried out inside the unit.

Social programmes are made possible in the reinforced supervision units, just like everywhere else, according to need. As the prisoners with a long term of imprisonment are in the unit in question as a rule, we are currently having a situation where the prisoners have already completed the offered programmes and it is too early to carry out pre-release programmes.

For example, the following activity possibilities are offered among other things to the prisoners of reinforced supervision unit:

- 1) working – at present, 10 prisoners are working in the unit, from whom 6 are cleaners, one is a librarian, one is a carer, one is a packer of motivation kits and one is a deck demolisher. In terms of time, these persons are engaged from 20 minutes up to 28 hours a week per one prisoner, depending on the assigned occupation and the content of work
- 2) acquisition of general education – there are two prisoners who are acquiring general education and they are engaged in studies approximately 24 hours;
- 3) art group – seven prisoners participate in the group and in terms of time they spend each 1.5 hours on it;
- 4) music group – seven prisoners participate in the group and in terms of time they spend each one hour up to four hours per prisoner;
- 5) courses in official language – twelve prisoners take part in the courses and the study takes place in the form of individual study. The frequency of consultations is once a month and their duration depends on the need;
- 6) psychologist's service – there are fifteen active customers and seven passive customers, i.e. people who go to the psychologist by agreement. In 2013, 8-12 hours per week are spent on active customers. The frequency of regular appointments is 2-4 times a month, plus special appointments if necessary;
- 7) chaplain's service – satisfaction of religious needs as necessary;
- 8) carom – is enabled to all prisoners when the cell doors are open, at their own discretion (3 times a week);
- 9) playing board games – is enabled to all prisoners when the cell doors are open, at their own discretion;
- 10) exercising on a multi fitness equipment – is enabled to all prisoners when the cell doors are open, at their own discretion;

- 11) using the library – all prisoners can order books from the library on the basis application;
- 12) watching TV – is enabled to all prisoners when the cell doors are open;
- 13) listening to radio – is enabled to all prisoners.

- ***detailed information regarding the different activities, programmes and educational (basic education and further) and vocational training courses offered to juveniles and young offenders, including as to the number of inmates involved in each of them and for how many hours per week (paragraph 71).***

Viru Prison enables the juveniles the following social programmes<sup>1</sup>:

- 1) Training for replacing aggressiveness – the objective of the programme is to teach to use positive social skills instead of aggressive behaviour and to change the participant so that considering with other people would be an important factor in the person's way of thinking and behaviour. The said programme lasts either for 18 weeks (once a week) or 9 weeks (twice a week). A meeting lasts for 2x55 minutes. Four prisoners are currently involved in the programme. In 2013, it has been planned for additional nine prisoners.
- 2) Anger management – the objective of the programme is to learn to command the means necessary for restraining and constructive reduction of anger. In course of the training it is learned to identify the situations which cause anger, to command body language, calming thoughts, relaxation, matter-of-factness, establishing communication, coping with criticism and insults, coping with group pressure. The programme in question requires at least nine meetings. The meeting lasts for 1.5-2 hours. One prisoner is currently involved in the programme, one has already completed the programme in 2013 and the programme has been planned for three more prisoners in this year.
- 3) Lifestyle training for offenders – the objective of the programme is to change the addiction behaviour. Maximum objective is to stop using addictive drugs and/or playing gambling games and a smaller objective is the control over use/playing. During the programme, the participants' motivation is strengthened by pointing out the damage caused by addiction and the benefits are shown which arise from beating the addiction, connections between using addictive drugs and unlawful behaviour are analyzed, a training plan is prepared and a self-control training is carried out, it is learned how to cope with addiction and social pressure, how to avoid setbacks and to cope with them. The training in question requires as individual work 6-8 meetings once a week for one hour and as group work 8-10 meetings once a week for 1.5 hours. Ten prisoners are currently involved in the programme. Twenty prisoners have already completed the programme in 2013 and it is planned that another eleven prisoners will complete the training this year. This year, participation in the programme has been dropped by five prisoners.
- 4) Youth programme EQUIP – the objective of the programme is to teach young people responsible thinking and behaviour by helping their companions. In course of the programme, skills of moral thinking and the ability to understand other people's opinions is developed, moral dilemmas are solved, conflict situations, the solving of which takes the participants' moral thinking on a higher level, are played through, it is learned to manage one's anger and mistakes in thinking are corrected, social skills are trained and a morality training is carried out. This programme requires 13 meetings once a week. A meeting lasts for 1.5 hour. Nine prisoners are currently involved in the programme, it is planned that another 17 prisoners will complete the training this year.

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<sup>1</sup> The social programme forecast has been prepared according to the number of persons for whom this programme has been currently designated in their individual treatment plan. Should the need for some programme increase, the number of places is also increased. As a rule, all persons who have been designated some programme for the returning them to society, are enabled these programmes.

- 5) Programme for developing social skills – the objective of the programme is to learn and practice the social skills so that these could be used in different situations in everyday life. All offenders need the upgrading of their social skills. Communication skills, self-assertion, coping with emotions, how to criticize and receive criticism, how to manage conflicts and how to solve problems is learned in course of the programme. This programme requires 8-12 meetings once a week. A meeting lasts for approximately one hour. No prisoners are currently involved but it has been planned that 22 prisoners will complete the programme this year.
- 6) Programme “The Right Moment” – the objective of the programme is to help the customers with the help of the programme to acquire, develop and use various skills related to solving social problems that help them to cope in difficult situations in life. The programme requires 13 meetings once a week. One prisoner is currently involved in the programme, three prisoners have completed the programme this year and it is planned that another 13 prisoners will complete the training this year.
- 7) Pre-release counselling – the objective of the programme is to prepare prisoners for release, information about the services of the Unemployment Insurance Fund, local governments, rehabilitation and social services, supports and housing services is forwarded on the basis of prisoner’s personal needs and future residence. The number of meetings depends on the number of dealt topics, the meeting lasts approximately for 60 minutes, at least once a week. The programme is carried out according to need and this becomes evident on an ongoing basis. In 2013, counselling has been offered to 13 prisoners.
- 8) Support group for prisoners with addiction problems – the objective of the support group for prisoners with addiction problems is aimed at raising the prisoners’ health related awareness and reducing risk behaviour, improving the prisoners’ motivation to change their drug use, getting acquainted with the relapse prevention mechanisms, providing information about the services which can be used in custodial institutions and upon release from prison. The programme requires 4 meetings once a week. Nine persons are currently involved in the programme. In 2013, it is planned that another 27 prisoners will complete the training.
- 9) Road traffic safety programme – This is a cognitive-behavioural programme intended for convicted offenders who have driven a vehicle in a state of intoxication. Main objectives of the programme are improving the offender’s knowledge and affecting the offender’s value attitudes and behaviour and through this reducing the number of new offences committed. The programme consists of two individual lessons carried out by a probation officer in course of which the officer discusses the probationer’s situation together with the probationer and the matters related to drunk driving; from six group lessons which are conducted by a car school traffic specialist together with the probation officer and two individual lessons where the probation officer continues the analysis of problems and the wording of a further action plan together with the probationer. Road traffic safety programme has been planned for one prisoner in 2013.

Viru Prison offers the juveniles among other things the following possibilities to spend their leisure time:

- 1) carom – is enabled to all prisoners when the cell doors are open, at their own discretion;
- 2) table tennis – is enabled to all prisoners when the cell doors are open, at their own discretion;
- 3) board games – is enabled to all prisoners when the cell doors are open, at their own discretion;
- 4) exercising on a multi fitness equipment – is enabled to all prisoners when the cell doors are open, at their own discretion;
- 5) art group – seven prisoners are participating, 1.5 hours a week;
- 6) watching the movies together with analyzing the movies – twice a week 2.5 hours;
- 7) using the library – everyone can order books from the library on the basis of application;
- 8) basket ball tournament – 10 prisoners are participating, takes place during summer period ;
- 9) family day on the Mothers’ Day – takes place once a year, on 19<sup>th</sup> May 2013 lasted from 13:00 to 15:00 and 12 prisoners with families participated;
- 10) music group – currently no participants due to lack of interest, 1.5 hours per week;
- 11) breaks dance group – currently no participants due to lack of interest, 1.5 hours per week;
- 12) literary essay competition of the Estonian Language Day – this year, the juveniles were not interested in the essay competition.

- 13) watching TV – is enabled to all prisoners when the cell doors are open;
- 14) listening to radio – is enabled to all prisoners.

Viru Prison offers the juveniles in connection with the motivation programme among other things the following activities:

- 1) using the video game room – pursuant to legal assessment, once a week;
- 2) additional possibility to use sports facilities - pursuant to legal assessment, once every two weeks;
- 3) library hours – pursuant to legal assessment, once every two weeks; Building E- once a week;
- 4) cooking courses – pursuant to legal assessment, once a week;
- 5) leave home – pursuant to legal assessment – once in three months.

Prisoners are engaged in acquisition of education as follows:

- 1) General education – currently 14 juvenile prisoners and 8 young prisoners are acquiring general education from whom everyone is involved in it on the average 29-33 hours a week.
- 2) Vocational education – currently 28 prisoners are acquiring vocational education from whom everyone is involved in it on the average 30 hours a week.

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

#### Recommendations

- ***the Estonian authorities to review the health-care staff resources at Viru Prison, in the light of the remarks made in paragraph 79. Urgent steps should be taken to fill the partly vacant psychiatrist's and dentist's posts as well as the second general practitioner's post, and consideration should be given to recruiting a third full-time general practitioner, bearing in mind that the health-care service is also partly responsible for the adjacent Jõhvi Police Detention House (paragraph 79);***

Filling vacant positions of health care staff is continuously dealt with. Very different channels are used in order to find the health care staff. Even if some doctor's position is vacant for a certain period, it is attempted to ensure the prisoners all necessary services within reasonable time. For example, there are no queues for general practitioner's appointment at the Viru Prison. All people who need help are enabled the doctor's appointment as a rule on the next day, seldom on the next day after that. As for the dentist's appointments, there are also no remarkable queues. The queue of planned patients for the dentist's appointment is on the average seven days. The queue for the psychiatrist's appointment is from two to three weeks. Emergency care is guaranteed immediately to all prisoners.

We explain additionally that prison general practitioners, psychiatrists and dentists are not responsible for the needs of the Jõhvi cell of East Police Prefecture. As for the detention house, the Prison is only responsible for the distribution of methadone treatment to the detention house customers but this not done by above-mentioned doctors and the time spent on it is marginal and does not affect the provision of services to the prisoners in the prison. In general, the health care staff of the Viru Prison do not provide other services to the detention house customers.

- ***steps to be taken to ensure that 24-hour shifts are discontinued in practice in the health-care services of Tallinn and Viru Prisons and in all other Estonian prisons (paragraph 80);***

As of today, 6 nurses-specialists from 16 nurses-specialists are working in 24-hour shifts at the Viru Prison, at the Tallinn Prison 16 nurses-specialists from 20 nurses-specialists. When we change the organization of work in the future, we will consider the recommendation given by CPT but at present current organization of work guarantees in the best way that the needs of prisoners and the staff are met and it is not possible switch over at once to the organization of work where the 24-hour shifts are not used at all. Namely, it has to be kept in mind that a part of medical staff is interested in 24-hour shifts and if the 24-hour shifts are discontinued, they would give up their work at prison. Consequently, abrupt transfer to a new organization of work would jeopardize the consistency of medical surveillance of the prisoners.

We explain additionally that according to the prison schedule the prisoners have lights-out from 22:00 until 06:00 during which time the specialist-nurses primarily respond to emergency situations in order to guarantee emergency care. A nurse working in the 24-hour shift will finish the activities set out in the schedule at the latest by 22:30 and they start with the first activities according to the schedule around 6:00. Thus, nurses have a more peaceful time in their work during lights-out.

- ***the recommendations made in paragraph 25 concerning a thorough screening by a health-care professional apply equally to the medical screening of newly-arrived prisoners as well as of inmates following a violent episode in prison (paragraph 81);***

Pursuant to § 14 (1) of the Imprisonment Act, upon arrival in a prison, a prisoner is required to undergo medical examination. Prisoner's health status is found out by medical examination, the information is entered on an electronic health card. Pursuant to § 53 (1) of the Imprisonment Act, the availability of emergency care twenty-four hours a day shall be guaranteed to prisoners.

Immediate medical examination will also be performed for a prisoner who has been caused bodily injuries. If prison officers have used physical force or special equipment, this will be noted in the report and a specialist-nurse shall perform the examination of the prisoner and render assistance if necessary. In case where the prisoner has not filed a complaint but in whose case the prison officer has notices signs indicating possible violence, examination is also performed by a specialist of the medical ward and medical care is provided is necessary.

If an incident takes place in the prison as a result of which a prisoner needs such medical care the provision of which is not possible in the prison, the prisoner will be referred for treatment to a relevant provider of specialist medical care outside the prison.

- ***the Estonian authorities to take the necessary steps to ensure that acts of self-harm are approached from a therapeutic rather than a punitive standpoint (paragraph 84);***

53 (4) of the Imprisonment Act states that prisons shall have the right of recourse against prisoners who have intentionally caused bodily harm to themselves to reclaim the amounts spend on health care services. We explain that money is not recovered from the prisoner in order to punish him/her but in order for the prisoner to compensate for the harm caused by him/her. The most important prerequisites for the right of recourse are as follows: the harm must have been caused intentionally and the prisoner has to be *sui juris*, i.e. to understand the consequences of his/her actions. Medical costs caused by self-harm will be recovered from prisoners through the mediation of the court, wherefore the court can also assess whether the recovery of medical costs is justified or not.

We explain that self-harming is always followed by the provision of necessary medical care by the health care staff. If a person who has harmed himself/herself also needs psychological counselling, this is enabled to the person. If a prisoner's self-harm has been caused by a medical diagnosis, e.g. schizophrenia, bipolar disorder, relevant psychiatric treatment is also guaranteed for these.

It is not reasonable to give up the reclamation of self-harm costs because the prisoners often use self-harm as means of manipulations in order to achieve a solution to their liking and to earn the prison officers' attention. It cannot be considered sensible when a prisoner is harming himself/herself on a regular basis for manipulative purposes and the costs caused by these act are left to be borne by the state. Prisoners have to be given a clear signal that they are responsible for self-inflicted harm and they have to compensate for the inflicted harm themselves.

- ***steps to be taken to ensure that medical examinations of prisoners are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of non-medical staff (paragraph 86);***

According to the practice of the Viru Prison and the Tallinn Prison, as a rule, prison service officers are not present in the doctor's office during the prisoners' doctor's appointment. Thus, the privacy of appointment is guaranteed for prisoners. At the same time, when a medical professional feels endangered in the presence of the prisoner, the medical professional may request the presence of a guard during the appointment. Such requests of the medical staff are complied with because it is considered important to guarantee the safety of medical staff.

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

From the point of view of ensuring security in the prison it is extremely important to know whether the person in question is intoxicated and if so, then what kind of intoxication it is. As a rule, forcible urine testing is not performed in prisons. For example, during last year it was not made in either of the visited prison. If a prisoner has not been capable of urinating for the test, the test has been taken with the prisoner's permission by means of catheter. If necessary, saliva tests are also used in order to identify drug intoxication. The prison has given more thorough explanations on forcible urine testing in its 2007 answer<sup>2</sup> to CPT.

#### Comments

- ***it would be desirable to reinforce the nursing staff resources at Viru Prison (paragraph 79);***

In 2012, a reform concerning the organization of work at the medical ward carried out in the Viru Prison the purpose of which was to make the work more efficient. In course of the reform, the organization of work of specialist nurses was also changed among other things. As a result of the reorganization of works, the specialist nurses' resources are used more efficiently wherefore no need is seen to increase the number of specialist nurses' positions.

- ***steps should be taken to ensure that psychotropic drugs are always distributed by health-care staff, as provided for by national legislation. Preferably, all medication should be distributed by health-care staff (paragraph 82);***

In the Viru Prison and the Tallinn prison, a specialist nurse hands out the medication included in the schedule of narcotic drugs and psychotropic substances in the presence of a guard. A prisoner shall take the medication immediately under the supervision and it is checked. A nurse hands out non-narcotic and non-psychotropic medication according to doctor's orders by the doses distributed into pill boxes that are equipped with the patient's name, cell number and medication name(s). A guard hands out the medication prepared by a nurse to a prisoner on a daily basis, identifying the person to whom the medication is assigned and makes sure that the medication is taken. Prison service does not consider it reasonable that medical staff hands out the non-narcotic and non-psychotropic medication because it would waste the medical staff's time in vain.

- ***the prevention of sexually transmissible diseases could be improved, inter alia, by the provision of information to inmates concerning methods of transmission, and the supply of appropriate means of protection analogous to those used in the community at large (paragraph 85);***

Upon receiving prisoners into the prison and in the future on an annual basis, the prisoners are tested for HIV and HIV related counselling is carried out. If a prisoner makes complaints which might be caused by some sexually transmitted diseases, necessary medical research is made in order to find out the prisoner's diagnosis and when the disease is identified, immediate treatment and counselling is ensured for the prisoner. Condoms are available for the prisoners free of charge for long-term visits. The prison does not tolerate sexual relationships between prisoners because the sexual acts taking place in the prison are largely violent and connected to strengthening the power positions. If the prison would make the means of protection available for the prisoners, this would create more favourable conditions for the spread of sexual violence in the prison.

- ***the Estonian authorities are encouraged to take the necessary steps to improve the screening of prisoners for hepatitis (paragraph 85);***

Upon receiving into the prison, all prisoners belonging to the risk group are tested for hepatitis B and C and assigned treatment, if necessary. If a prisoner makes complaints which might be related to hepatitis B and C, an additional check-up is made also during imprisonments and if the disease is detected, the prisoner is ensured, if necessary, adequate treatment and counselling. The prisoners belonging to the risk group are also vaccinated for hepatitis B. All results received are entered on the prisoners' health card.

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<sup>2</sup> Available at: <http://www.cpt.coe.int/documents/est/2011-16-inf-eng.pdf>, p. 5.

We additionally note that the Ministry of Justice and the Ministry of Social Affairs are currently preparing a cooperative agreement for the implementation by the Ministry of Justice of a pre-defined project "Strengthening the prevention and treating system of infectious diseases in prisons" of the programme "Public Health" which is financed within the framework of Norwegian financial instrument 2009-2014. The project foresees in addition to treatment, the training of staff and other things also annual testing of at least 400 prisoners for hepatitis C. Different medical equipment (X-ray and ultrasound machines, autoclaves, sterilisers, centrifuges) are procured for improving the capability of diagnosing infectious diseases.

- ***the Estonian authorities are invited to draw up a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (paragraph 87).***

National Drug Prevention Strategy has been prepared in Estonia. One part of the strategy referred to deals with drug prevention, treatment and rehabilitation in Estonian prisons. The set objective is to create a functioning control system and to ensure the possibilities of systematic treatment and rehabilitation in the prison. Prison service has also developed a concept for anti-drug fight in prisons. According to the said concept, the anti-drug fight in prisons includes various activities: prevention, treatment, rehabilitation, prevention of relapse, reduction of damages, post-release support, drug monitoring, effective security work and decrease of supply, and it is important to focus on all aspects of drug problems at once. For example, there are addiction rehabilitation wards for young and adult prisoners in the Viru Prison. Prisoners are placed in the addiction rehabilitation ward on the basis of risk assessment and individual treatment plan and it follows the objectives set in the individual treatment plan. Upon placement, an agreement is concluded with a prisoner, i.e. consent for participation in the rehabilitation programme and for control of drug use. Young prisoners are ensured intensive rehabilitation programme and organisation of support activities; adults are ensured the activities which correspond to the stage of addiction rehabilitation.

#### Requests for information

- ***detailed information on the possible transfer of prison health-care services from the Ministry of Justice to the Ministry of Social Affairs (paragraph 77);***

Possible transfer of health care services from the Ministry of Justice to the Ministry of Social Affairs has been analyzed but at present only the transfer of organizing psychiatric coercive treatment has been actively started with.

- ***observations on complaints received from prisoners at Tallinn Prison regarding difficulties in making an appointment with a doctor or a specialist such as a dentist or psychiatrist (paragraph 78);***

Health care services in the Tallinn Prison are provided on the basis of a waiting list. Prisoners have complaints in connection with long waiting lists but the Tallinn Prison is making efforts in order to keep the waiting lists as short as possible. At present, the waiting list for psychiatrist's appointment is on the average 3 weeks and for the dentist's appointment 8 weeks. In the situation where the prisoner's state of health needs immediate intervention by a doctor, the provision of care is immediately ensured to a prisoner. Should a person need immediate treatment, for which provision there are no possibilities in the prison, the prisoner will be referred for treatment to a relevant provider of specialist medical care outside the prison.

- ***precise and up-to-date information on the protocol regarding body-cavity searches, as well as on who may apply this protocol (paragraph 83).***

In order to discover prohibited items, prison officers have the right to perform full search of prisoners. Should it become necessary to perform a body cavity search, this will be performed without exception by a member of medical staff. In the Viru Prison, physical search of body cavities is not performed in case of male prisoners, a member of medical staff administers in case of need the person in question laxatives instead and this person is directed to a special lavatory where it is possible to check the excrement. The prisoners are not performed regular and consistent body cavity searches in either prison. The need to perform a body cavity search occurs very seldom. In the Viru Prison this need has emerged once and in the Tallinn Prison on a couple of times during the last few years.

### **3.6 Food provided to prisoners**

#### Recommendations

- ***the nutritional state of prisoners to be assessed at admission by, inter alia, calculating the body mass index (BMI) of adult prisoners and drawing up a growth chart of those juveniles still in the process of growing. Afterwards there should be repeated measurements at reasonable intervals (paragraph 90);***
- ***prisoners with a BMI <18.5, stagnating in growth or displaying an unintentional weight loss >5% in three months to be the subject of a nutritional intervention (receive additional food of good quality) and close follow up until the situation has been remedied (paragraph 90);***

After a prisoner arrives to the prison, a health care professional will perform the initial examinations and set down, among other things, the prisoner's height and weight. Pursuant to § 4 (2) of the Regulation of the Minister of Social Affairs "Food Rations in Custodial Institutions", the prisoners whose body mass index is below 18.5 kg/m<sup>2</sup>, women taller than 180 cm and men taller than 190 cm, will receive extra food. Repeated check of underweight prisoners' body weight and setting down the results shall take place on a regular basis, once every three months. According to the result, the provision of extra food is either extended or terminated. If a prisoner has reached a normal weight, normal food regime is restored.

Pursuant to § 52 (2) of the Imprisonment Act, medical officers of prisons are required to supervise the state of prisoners' health on a constant basis, including unintentional weight loss. Medical officers of prisons can prescribe extra food for prisoners whose weight loss is unintentionally big. The said extra food means that prisoners will get 300 kcal more food than the normal menu. In the Tallinn Prisons, extra food has been prescribed approximately for 160 prisoners and in the Viru Prison approximately for 350 prisoners. Medical officers can also prescribe the prisoners an extra portion, which means a double portion of food.

- ***the health-care services in all Estonian prisons to adopt a proactive approach with regard to supervising catering arrangements. Particular attention should be paid to the dietary requirements of certain groups of prisoners who might have specific needs (paragraph 91).***

Prisons are operated pursuant to law which guarantees the health care staff's preventive approach to the provision of food for prisoners. § 47 (2) of the Imprisonment Act states that medical officer shall supervise the preparation of the prison's menu and the provision of food. Pursuant to subsection 3 of the same section, prisoners shall be ensured with dietetic food as prescribed by a medical officer. For example, in the Viru Prison due to medical indications 348 prisoners are offered bread instead of white bread, 26 prisoners have been prescribed meat-free food, diabetics' menu has been prescribed for 21 prisoners, 13 prisoners have been prescribed a special menu due to lactose intolerance, etc. In the Tallinn Prison, due to medical indications 363 prisoners are offered bread instead of white bread, 51 prisoners have been prescribed meat-free food, diabetics' menu has been prescribed for 7 prisoners and fish-free food has been prescribed for 34 prisoners. We explain that medical officers evaluate the prisoners' need for food energy, assigning them to a corresponding group for the provision of food.

### **3.7 Other issues**

#### Recommendations

- ***the Estonian authorities to take the necessary steps to ensure that telescopic truncheons, tear gas canisters and handcuffs are not carried openly in detention areas (paragraph 92);***

Prison officers carry telescopic truncheons, tear gas canisters and handcuffs in order to ensure security in prison. Above-mentioned objects are carried on the belt not held in hand where they could have a provoking effect. If an incident occurs which requires the use of the objects in question, officers can quickly and adequately respond only if they are at hand. Incidents may occur in the prison which require immediate response and in such situation any kind of delay may bring along negative consequences. For example, while an officer is looking for the necessary object, a prisoner is able to attack the officer or someone else. Prison has to be ready to immediately respond to any kind of incidents. It is important for security considerations that prison officers would carry telescopic truncheons, tear gas canisters and handcuffs within their reach because this enables immediate response if an incident occurs.

- ***the length of the monthly "short-term" visits to be increased to four hours. Preferably, prisoners should be able to receive a visit every week (paragraph 94);***

§ 24 (1) of the Imprisonment Act states that prisoners shall be 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. Pursuant to first sentence of subsection 2 of the same provision, the duration of a short-term visit shall be up to three hours. We explain that as there are many visits and the frequency for enabling and the duration of these visits will depend on limited possibilities of the prison, it is not possible to increase the minimum duration of visits up to four hours and to increase the minimum frequency. At present, law includes the minimum that the prison has to ensure for all prisoners requesting the visit but, if possible, the prison will enable the meetings more frequently.

- ***conditions in the visiting facilities at the establishments visited (and, as appropriate, in other penitentiary establishments in Estonia) to be reviewed in order to ensure that, as a rule, short-term visits take place under open conditions for all categories of prisoners (paragraph 94);***

Pursuant to § 31 (2) of Regulation No. 72 of the Minister Justice of 30 November 2000 "Internal Rules of the Prison", a prisoner or a person who has come to visit the prisoner may be separated in the visiting room or some other place designated for the meeting by a glass or a wire mesh partition. In the Viru Prison and the Tallinn Prison prisoners are separated from visitors in the short-term visit premises by a glass partition. The use of the partition helps to reduce the possibilities for handing over the items which are prohibited in prison, e.g. the prison officer's attention is distracted and this is used to hand over the prohibited item. Before the visit, the person who has come to visit is searched pursuant to § 37 (2) of the Internal Rules of the Prison but this does not completely preclude the possibility that the person who has come to visit manages to take along prohibited items to the visit. In order to ensure security in the prison, it also has to be ensured that prohibited items would not get in the prison and the prison will do everything in its power on the basis of effective law.

- ***the maximum period of solitary confinement as a punishment to be no more than 14 days for a given offence, and preferably lower. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which it is felt call for more severe sanctions should be dealt with through the criminal justice system (paragraph 95);***

As of today, the average number of days of imposed commission to a punishment cell concerning the whole prison system has been approximately 7 days. Pursuant to § 63 (1) 4) of the Imprisonment Act, a prisoner may be imposed as disciplinary penalty commission to a punishment cell for up to 45 twenty-four hour periods. The Imprisonment Act regulates the imposition and application of commission to a punishment cell. In the Viru Prison, commission to a punishment cell is also imposed to the permitted extent provided for in § 63 (1) 4) of the Imprisonment Act. No prohibition arises from legislation regulating imprisonment to apply several sequential commissions to a punishment cell. Pursuant to § 65 (1) of the Imprisonment Act, disciplinary penalties shall, as a rule, be enforced immediately. The activities of the prison in the within-named matter have been evaluated by Estonian courts that have not come to the conclusion that

commissions to a punishment cell should not be enforced sequentially. For example, the Supreme Court found in its decision No. 3-3-1-79-12 that by placing the person into a punishment cell for 69 consecutive days the prison did not violate the person's rights or humiliate the person's human dignity. At present we do not find that it would be expedient to start to conduct proceedings concerning more serious violations of discipline through the system of criminal law because current disciplinary proceedings are less burdensome for the state and the prisoner is also imposed punishment for the violation earlier, which helps the prisoner to understand better the connection between violation and punishment.

- ***the maximum possible period of placement in a disciplinary cell as a punishment for juveniles to be substantially reduced, preferably to a period not exceeding three days. Further, whenever juveniles are subject to such a sanction, they must be guaranteed appropriate human contact throughout the duration of the measure (paragraph 95);***

Pursuant to § 63 (2) of the Imprisonment Act, young prisoners may be committed to a punishment cell for up to 20 twenty-four hour periods. No exceptions are made upon imposing disciplinary penalties on juveniles. Upon choosing a disciplinary punishment, it is separately assessed which disciplinary punishment would help to direct a prisoner to lead law-abiding life and would comply with the principle of proportionality arising from the second sentence of § 11 of the Constitution of the Republic of Estonia (suitability of the measure, its necessity and proportionality in a narrower meaning, i.e. moderation). Upon choosing a disciplinary punishment, the objective of execution of imprisonment is taken into consideration. Upon placing juveniles in a punishment cell, it is observed that the chosen disciplinary punishment would comply with the objective and would be proportionate with the violation committed and in general the maximum period of commission to a punishment cell is not applied.

- ***all prisoners placed in a disciplinary cell to be allowed access to a broader range of reading material (paragraph 96);***

Pursuant to § 60 (1) of the Internal Rules of the Prison, the prisoners committed to a punishment cell may have a reasonable quantity of study books or religious literature with them. In addition to the above-mentioned, the prisoners committed to a punishment cell may read newspapers if they have not been restricted to use this right. However, this right is restricted to very few prisoners, primarily to those who may set the newspapers on fire, cause a flood with them, etc. At present, the prisoners committed to a punishment cell may spend their time in the punishment cell in an educational manner – reading study books or religious literature. Upon allowing entertaining activities in the punishment cell, the idea and purpose of commission to a punishment cell would significantly decrease.

- ***the role of health-care staff vis-à-vis persons held in solitary confinement to be reviewed, in the light of the remarks made in paragraph 97 (paragraph 97);***

The prisoners who are committed to a punishment cell are ensured medical care. Also in the case when a prison officer has a doubt that placement in a punishment cell is not possible due to the prisoner's health status, a medical examination is performed before placement in a punishment cell and the medical officer will give an assessment concerning the possibility of placing the prisoner in a punishment cell. Consequently, the prisoner's health status is taken into consideration upon placing the prisoner in a punishment cell. The specialist nurse of the unit monitors the prisoner's health status during the commission to a punishment cell who visits the prisoner once a week. If the prisoner has any health problems, the prisoner can notify the prison service officers at any time and, if necessary, immediate medical care is provided. A specialist nurse assesses the prisoner's health status and if prisoner's health status does not enable the prisoner to continue the commission to a punishment cell, the service of the punishment is interrupted until the prisoner gets better.

- ***the Estonian authorities to review the procedure for placement in disciplinary confinement in order to ensure that prisoners concerned i) are informed in writing of charges against them, ii) have a right to legal assistance, iii) are given reasonable time to prepare their defence, and iv) have the right to be heard by the person who takes the decision, to call witness on their behalf and to cross-examine evidence given against them. Further, inmates having difficulties in understanding Estonia should be provided with necessary assistance (paragraph 98).***

§ 64 (1) of the Imprisonment Act states that disciplinary proceedings shall be conducted and the facts of disciplinary penalties shall be ascertained by the prison service. More specifically, this takes place as follows. If a prisoner commits a violation of discipline, the prison service officer shall write it down in a report. The prisoner is immediately informed of the preparation of the report and he/she is given a possibility to give his/her explanations. Giving explanations is the prisoner's right, not an obligation. After that, the unit head shall decide whether the proceedings concerning the violation shall be conducted under disciplinary procedure or not. If it is decided to conduct the proceedings, the chief specialist - the unit head shall appoint the officer conducting the proceedings. The prisoner is informed of disciplinary proceedings commenced against the prisoner and the prisoner is once again given the possibility to give his/her explanations. Minutes shall be taken of the process of disciplinary proceedings. The minutes shall be signed by the prison officer who conducted the disciplinary proceedings. The minutes prepared shall be submitted to the prisoner for examination. The prisoner has the right to submit his/her objections to the minutes of disciplinary proceedings. A disciplinary penalty shall be imposed by the officer who conducted the disciplinary proceeding. The imposition of a disciplinary penalty shall be effected in the form of a directive and it shall be substantiated. The directive by which a disciplinary penalty is imposed is delivered to a prisoner against a signature.

A person has the right to involve a defence counsel in the disciplinary proceedings. If the person does not have sufficient financial resources in order to pay the provider of legal assistance, the person may apply for legal assistance also from the state. If the prison service has established that the prisoner is not sufficiently proficient in Estonian to give explanations in the disciplinary proceedings, the prisoner shall be given a possibility to give explanations in his/her mother tongue that will be interpreted into Estonian at the expense of the prisoner or the prison. The prison service will also explain the prisoner, if possible in the prisoner's mother tongue, the relevant facts in the disciplinary proceedings. If the prisoner does not agree with the disciplinary penalty imposed on him/her, the prisoner may file a challenge, explaining why he/she finds that the disciplinary penalty has not been imposed correctly. After the challenge proceedings have been completed, the prisoner may also file an appeal with the court. At this point, we emphasize that both disciplinary and court proceedings are conducted pursuant to the investigation principle, i.e. an administrative authority has the obligation to find out all relevant facts in the matter. Thus, even if the prisoner does not have a representative in disciplinary or court proceedings, an administrative authority and the court have to ensure the protection of his/her rights and find out all fact on their own initiative.

As the prisoner has been ensured a possibility to give explanations in the disciplinary proceeding, the possibility to file challenges and court appeals and the proceedings are always written proceedings, we find that at present the prisoners are ensured enough means and possibilities to protect their rights.

- ***measures to be taken to provide inmates with the necessary information, in a language they understand, on all existing external complaints and monitoring mechanisms (paragraph 102).***

A prisoner can examine the legal acts containing different complaint possibilities and information concerning supervision mechanisms. The Imprisonment Act also gives an overview of the prisoner's right for challenge proceedings and judicial proceedings. The Imprisonment Act is always presented for examination to all prisoners upon their arrival to prison and the Act is available to the prisoners in Estonian and in English on a continuous basis both on paper and electronically. If a prisoner arrives to the prison who is not proficient in Estonian or in Russian, the prison calls an interpreter who will introduce the prisoner important legislation regulating the imprisonment. A more individual information method is also used in prisons where an inspector/contact person or some other prison officer explains the prisoner different complaint possibilities. A reference to challenge shall be added to administrative legislation and written answers notifying of refusal to carry out the act, in which the complaint possibilities for contesting the answers have been explained. Possibilities to contest court orders are informed of in corresponding references in the court orders. If a prisoners so requests, the court shall arrange the translation of the court order into the language which the prisoner understands. A prisoner can also address the prison in writing and ask for advice and assistance.

### Comments

- ***the Estonian authorities are invited to take the necessary steps to ensure that all prisoners can have long-term visits regardless of their financial resources (paragraph 94).***

Pursuant to § 25 (4) of the Imprisonment Act, the costs of long-term visits may be borne both by the prisoner or the visitor. Thus, effective regulation enables the visitor also to bear the costs of long-term visits, if the prisoner's economic situation does not enable to path the costs of long-term visits. At present, we do not consider it necessary to offer long-term visits free of charge. The costs consist of the use of premises, providing food for visitors and the costs of toiletries. This is not a visiting fee but actual costs borne by the prison in connection with visits.

- ***the Estonian authorities are invited to review the current system of complaints taking into account the remarks in paragraph; 99 in particular, the replay to a complaint addressed to the Director should be signed by him /her (paragraph 99).***

A very large number of prisoners address their complaints to the director of prison. Considering the large number of complaints it is not feasible that the director would sign all answers. As competent prison officers, who are informed about specific circumstances, deal with single matters and prepare corresponding answers to the prisoners' complaints, it is not reasonable or expedient to have these answers signed by the director. Director signs, for example, the answers to claims for damages, thereby essentially resolving the disputes and gives his opinion concerning the director's subordinates' earlier decisions and operation. The prisoners can, with justified need, register for the director's appointment where they can personally discuss their problems and observations.

- ***the Estonian authorities are invited to explore how to full potential of the Prison Committees can be realised and their synergy with the NPM promoted (paragraph 102).***

If possible, we try to develop the cooperation between prison committees and the national prevention authority. For example, we are currently considering the establishment of procedure pursuant to which a committee, which one member is also the representative of the national prevention authority, shall elect the members of the prison committee.

### Requests for information

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

Prisoners' language skills are indicated on their name tags and this makes it easier for the officers to understand the specific prisoner's level of Estonian language proficiency. It is reasonable to communicate with prisoners with elementary level of Estonian language proficiency in Estonian in order to provide them language practice with the objective to further improve their language skills. Good language skills create the prisoners better possibilities for coping in the future. If prisoners' official language skills and understanding the speech are deficient, the prisoners are given orders in addition to Estonian also in the language which the prisoners understand. Prison officers are generally proficient in Russian on the level which enables them to communicate with prisoner who do not speaks the official language and, if necessary, to make the contents of documents in the official language understandable to them. The speciality study programmes of prison officers contain the study of a foreign language (Russian). The Estonian-Russian phrasebook prepared for officers contains the words, expressions, etc., that are most frequently used in the prison which supports the communication between the prisoners who are not proficient in the official language and the officers. Dictionaries are available in the prison libraries that can be used both by the prisoners and the officers. Russian language courses are also organized for the officers for improving the officers' Russian language skills. The prisoners are also organized intensive official language studies thereby reducing the possibility for a language barrier in the communication between the officer and the prisoners.

## 4. ESTABLISHMENTS UNDER THE AUTHORITY OF THE MINISTRY OF SOCIAL AFFAIRS

### 4.1 Preliminary remarks

#### Requests for information

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

Deinstitutionalization through development of community-based services for people with mental disabilities is Estonian priority during the next ERDF period. By modernizing facilities of the institutions providing social welfare services to people with special mental needs in the setting of new modern family homes, the aim is to improve the ability of people with disabilities to cope independently, increase their social inclusion and facilitate their employability. These people are offered opportunities for a richer and more varied life within the community by providing short - and long-term daily and round the clock welfare services, help in managing everyday life and support with the aim in regard to increase their employment and to teach them how to cope as independently as possible.

In this year such homes are established to ca 550 clients. AS Hoolekandeteenused have expanded to almost every county and have twenty-three homes throughout Estonia more than 2,500 places. 55 new family houses for people with special mental needs in eleven different locations in Estonia will be ready by the end of the year 2013 – they established eight new modern homes formed of contemporary family houses and expand three working homes. During the next ERDF period (2014-2020) it is planned to repair living conditions for other special care clients too. In 2013, the Ministry of Social Affairs will be working on a special care policy strategy to update development trends, clarify concepts etc. in collaboration with various stakeholders and partners.

### 4.2 Ill-treatment

#### Recommendations

- ***the management of the Psychiatric Clinic of the North Estonia Medical Centre (NEMC) and of the Koluvere Care Home to regularly remind orderlies that all forms of ill-treatment of patients/residents, including threats and verbal abuse, are unacceptable and will be punished accordingly (paragraph 108);***

According to the feedback from the North Estonian Medical Centre (NEMC), the clinic conducts continuous training of staff on how to behave with patients. On-going feedback on the behavior of staff is being collected from patients to immediately take appropriate measures to put in the undesirable behavior of patients with no recurrence.

Clinic's internal website has a separate section on "Ensuring patient dignity", which offers CPT Estonian materials to all staff and departments' senior nurses introduce them regularly to the staff. List of documents is following:

- Convention regarding Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Non-obligatory protocol of Convention regarding Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional;
- An overview by the European Committee of Torture and Inhuman or Degrading Treatment or Punishment (CPT);
- Standards by the European Committee of Torture and Inhuman or Degrading Treatment or Punishment (CPT);
- Convention by the European Committee of Torture and Inhuman or Degrading Treatment or Punishment (CPT);
- Maltreatment Prevention;
- The Istanbul Protocol;
- Principles for the protection of persons with mental illness and the improvement of mental health care.

The entire clinic's maintenance and security staff have completed the 20-hour internal training program organized by the clinic, which concludes psychiatric patient rights and dignity maintaining.

Patients staying in the clinic therapy are always right and have the opportunity to appeal the staff. Complaints will be handled in accordance with existing procedures.

In addition, all occupants of involuntary treatment will get state attorney, to whom they also have the opportunity to submit complaints.

- **staff at the Psychiatric Clinic of the NEMC and the Koluvere Care Home to employ all means at their disposal to prevent inter-patient/resident violence. In order to tackle this problem, staff should be alert to signs of trouble and both determined and properly trained to intervene when necessary (paragraph 110).**

According to the feedback from the North Estonian Medical Centre, all patients' clinic-related violence cases are recorded. By the risk assessment accordance clinic staff and patients are moved inside the clinic regularly to prevent the recurrence of cases of violence.

#### Comments

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

### **4.3 Living conditions**

#### Recommendations

- **steps to be taken at the Psychiatric Clinic of the NEMC to ensure that patients are entitled and, if necessary, encouraged to wear their own clothes during the day or are provided with appropriate non-uniform garments (paragraph 113);**

According to the feedback from the North Estonian Medical Centre, clothing offered by the hospital's Psychiatric Clinic is the same as in other clinics (surgery, oncology, etc.). The patient has the right to choose: either he or she wants to be in his or her own clothes, or in clothes offered by the clinic. Clothing choosing system is same in all clinics of the hospital. For unknown reasons, the majority of patients prefer hospital clothes.

- **the necessary measures to be taken at the Clinic to ensure that all patients, health permitting, are offered access to the open air on a daily basis. Appropriate clothing and footwear should be made available to patients in order to enable them to go outside in all seasons (paragraph 114).**

According to the feedback from the North Estonian Medical Centre, hospital cannot accept condemnation that patients have no access to the open air. The hospital has sufficiently walking gardens with roofed zones, where patients can stay and all patients have access to the walking areas, if it is not contraindicated because of patients health condition or extreme weather conditions.

#### Comments

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

The standard conditions of hospital's accommodation have been set out by Regulation of Minister of Social Affairs No. 132 from 15.11.2002. All patients have their own bedside table with a locker and in most departments wardrobe is also in the room. Considering patients' mental status, it is not possible to place too many objects in room to create a domestic atmosphere; as such items may be used abnormally by the patients. For example: self-harming, attacking the staff or other patients. Patients can deposit all valuables at the clinic depository.

According to the feedback from the North Estonian Medical Centre, all departments are well equipped with privacy spaces and the hospital will repair and renovate on a daily basis the occupied spaces in accordance with economic opportunities.

#### Requests for information

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

According to the feedback from the AS Hoolekandeteenused, residents with severe multiple disabilities have been moved to the new supported home in December 2012. Residents placed to Koluvere by the court have been moved to one other special care home in January 2013. In February 2013 there were some inner decoration made and from March residents in Koluvere are mostly accommodated one to two to a room.

There are still 10 large (about 24 m<sup>2</sup>) rooms for three residents, but these are residents who are used to and to not want to live separately after living together for so many years.

#### **4.4 Treatment**

##### Recommendations

- ***steps to be taken at the Psychiatric Clinic of the NEMC to further develop the drawing up of individual treatment plans and to develop the work of multidisciplinary teams (paragraph 119);***

Acute psychiatry services are provided inpatient way in Estonia. A variety of psychological therapy and occupational therapy is provided in an outpatient way.

Every patient has a doctor and a treatment plan. With large proportion of patients who have severe problems, clinic keeps regular contact with family, local government social workers, rehabilitation team, as well as with support home and care agencies.

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

According to legal regulations in Estonia, all medical professionals have an obligation to document the provision of health care service. However, it depends on medical professional's decision and probably the severity of injuries or need of any treatment because of that, how detailed is the documentation and/or if any follow up is documented. Health Board inspected systematically how medical professionals documented the provision of health care service.

#### Requests for information

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

Estonian system of rehabilitation service is in the middle of the reform. The aim is to make service more effective, more quickly accessible etc and to put more emphasis on quality. In order to achieve the objective set when person started using special care service, a provider of special care service shall prepare an activity plan for the performance of concrete activities together with the person and his or her legal representative, if the representative exists.

An activity plan shall include:

- 1) the objective established for the person by the Social Insurance Board and the recommended activities for the achievement of the objective and
- 2) the schedule and description of the performance of the activities which comply with the needs of the person and assessment of the service provider concerning the performance of the activities at least each month. An activity plan shall be prepared for a person for the time of the provision of special care service and the plan shall be reviewed and, where necessary, specified at least once a year. State supervision over provision of social services are organised by Social Insurance Board.

#### **4.5 Staff**

##### Recommendations

- ***the number of nursing staff to be increased in Ward 3 of the Psychiatric Clinic of the NEMC (paragraph 125);***

Recruitment of nursing staff is under competency of the Psychiatric Clinic of the NEMC. However this recommendations is forwarded to *Psychiatric Clinic of the NEMC*.

- ***staff resources at the Koluvere Care Home to be reinforced, in the light of the remarks in paragraph 128 (paragraph 128).***

According to Social Welfare Act a provider of 24-hour special care service shall ensure the availability of independent nursing care per 40 persons receiving the service at least 40 hours a week.

If the 24-hour special care service is provided to a person with a severe, profound or permanent mental disorder with unstable remission, the service provider shall ensure the availability of independent nursing care provided by a mental health nurse or a psychiatric nurse per 30 persons receiving the service at least 40 hours a week.

If the 24-hour special care service is provided to persons placed in a social welfare institution by a court ruling, the service provider shall ensure the availability of independent nursing care provided by a mental health nurse or a psychiatric nurse per 20 persons receiving the service placed at a social welfare institution by a court ruling at least 40 hours a week.

If the 24-hour special care service is provided only to persons with intellectual disabilities, including persons with intellectual disabilities placed in a social welfare institution by a court ruling, the service provider shall ensure the availability of independent nursing care per 40 persons receiving the service at least 40 hours a week.

Psychiatrist visits the residents in Koluvere Care Home at least once a month.

### Comments

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

In those cases where the medical personal need security staff help to restrain patients are they strictly upon the instructions of medical personal.

### 4.6 Means of restraint

#### Recommendations

- ***steps to be taken at the Psychiatric Clinic of the NEMC and, as appropriate, in other psychiatric establishments in Estonia, to review both the duration of fixation and the frequency of resort to that measure, in the light of the remarks in paragraph 131 (paragraph 131);***
- ***steps to be taken at the Clinic and, as appropriate, in other psychiatric establishments in Estonia, to ensure that patients subject to fixation receive all necessary assistance (including to be escorted to the toilet) from the health-care staff member who is present and that all patients in respect of whom any measure of restraint is applied benefit from a debriefing at the end of the measure (as required by law) (paragraph 132);***

On September 1, 2012 came into force Chapter 2<sup>1</sup> (§§ 9<sup>1</sup>-9<sup>2</sup>) of the Mental Health Act shall address the limitations on possession rights of substances and objects for patients in stationary psychiatric care. Paragraphs 14-14<sup>4</sup> of Chapter 3 cover the changes concerning restraints.

According to Mental Health Act § 14 (1) may use any measure of restraint only if all of the following circumstances exist:

- 1) the person has a severe mental disorder which restricts his or her ability to understand or control his or her behaviour;
- 2) without in-patient treatment, the person endangers the life, health or safety of himself or herself or others due to a mental disorder;
- 3) other psychiatric care is not sufficient.

Means of restraint are used only on the basis of decisions of physicians. In inevitable cases, the commencement of physical or mechanical restraint or placement in an isolation room may be decided by a nurse by promptly notifying a doctor of the use of means of restraint, who shall then decide on the need to continue the use of means of restraint. Before the use of means of restraint, the doctor shall assess the condition of a person immediately and in person and shall make a decision on the necessity to use the means of restraint and the applied measure of restraint. The measure of restraint applied to a person shall be proportional to the immediate danger having occurred and infringe the person's rights and liberties the least. The use of means of restraint shall be discontinued immediately after the danger ceases to exist. The health care professional shall explain the grounds for the use of means of restraint to a person and the specific activities upon the use of means of restraint. The treatment of a person shall not be interrupted at the time of use of means of restraint. A person towards whom a means of restraint has been used shall be under the supervision of a health care professional. Upon the use of mechanical restraint, a person shall be under constant supervision of a health care professional. A doctor shall examine the condition of a person towards whom a means of restraint has been applied and assess the necessity to apply the means of restraint according to the person's condition until the discontinuation of use of the means of restraint. The need to continue the use of means of restraint shall be noted by the doctor in the person's medical history. After discontinuation of the use of means of restraint with regard to a person, the doctor shall hold a conversation with the person upon the first opportunity with the aim of preventing the use of means of restraint in the future and informing the person of his or her rights in connection with the use of means of restraint. A health care provider shall notify the Health Board, no later than within the working day after discontinuation of the use of means of restraint, of each event in case of which the duration of the means of restraint is longer than twenty-four hours.

- ***the necessary steps to be taken at the Koluvere Care Home to ensure that a resident subject to the measure of seclusion is continuously supervised by a qualified health-care staff member. The staff member may be outside the resident's room, provided that the resident can see the staff member and the latter can continuously observe and hear the resident. This will involve adapting the material conditions in the room used at the time of the visit for seclusion or finding another room for the application of this measure (paragraph 134);***

According to Social Welfare Act a provider of 24-hour special care service may use only isolation as a restriction on freedom of movement with respect to persons who have not been placed to receive the 24-hour special care service by a court ruling. Isolation may be used in addition with respect to persons placed in a social welfare institution by a court ruling.

Placing a person in an isolation room is deemed to be isolation. The person shall be constantly under the supervision of the provider of 24-hour special care service during the person's stay in an isolation room.

Isolation may be used with respect to a person receiving the 24-hour special care service only if:

- 1) there is immediate danger arising from the person to the life, physical integrity or physical freedom of the person himself or herself or other persons;
- 2) verbal calming of a person or application of other measures known to the service provider and indicated by the doctor with respect to the specific person has been insufficient and
- 3) to the service provider's knowledge the doctor has not excluded the use of isolation with respect to the specific person.

A person may be isolated from other persons receiving the service until the arrival of the provider of emergency medical care or the police, but not for longer than three consecutive hours.

A provider of 24-hour special care service shall adopt a reasoned written decision concerning the isolation. The service provider shall notify the legal representative of the person, if the representative exists, of the isolation of the person.

After the termination of isolation the provider of 24-hour special care service is required to explain the purpose and reason for isolation to the person who was isolated.

- ***steps to be taken by the management of the Care Home to ensure that any use of chemical restraint by external emergency services is fully recorded and that the residents concerned are subsequently closely monitored by qualified health-care staff (paragraph. 135).***

According to Health Services Organisation Act the emergency medical care means out-patient health services for the initial diagnosis and treatment of life-threatening diseases, injuries and intoxication and, if necessary, for the transportation of the person requiring care to a hospital. An ambulance crew shall provide emergency medical care on the basis of a dispatch order received from the alarm centre or information received in any other manner. All procedures for residents are documented.

The quality and conditions of the emergency medical care service are organised by Health Board. The Minister of Social Affairs shall establish the requirements for the staff.

#### Comments

- ***the term "continuous supervision" used in the Mental Health Act as amended should be understood to mean "continuous presence" (paragraph 129);***

The term "continuous supervision" should be understood to mean "continuous presence". According to the Mental Health Act § 14<sup>1</sup> (1) the use of mechanical restraint, a person shall be under constant supervision of a health care professional.

- ***the CPT trusts that, following the adoption of the September 2012 amendments to the Mental Health Act, steps have been taken at the Clinic to ensure that the use of chemical restraint is recorded in a specific register (paragraph 133).***

#### Requests for information

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

According to Health Services Organisation Act the emergency medical care means out-patient health services for the initial diagnosis and treatment of life-threatening diseases, injuries and intoxication and, if necessary, for the transportation of the person requiring care to a hospital. An ambulance crew shall provide emergency medical care on the basis of a dispatch order received from the alarm centre or information received in any other manner. All procedures for residents are documented.

The quality and conditions of the emergency medical care service are organised by Health Board. The Minister of Social Affairs shall establish the requirements for the staff.

#### **4.7 Safeguards**

##### Recommendations

- ***steps to be taken to ensure that in the context of court proceedings to renew the involuntary placement of a person in a social care home, the person concerned is always heard by the judge (paragraph 141);***

Judge consider this recommendation as possible.

- ***the Estonian authorities to take steps to reflect, in both law and practice, the principle of a patient's free and informed consent to treatment and the requirements as regards treatment without consent set out in paragraph 143 (paragraph 143);***

According to the Mental Health Act § 3 (1) is psychiatric care provided on a voluntary basis, that is, at the request or with the informed consent of a person. The treatment of a person with a mental disorder without his or her informed consent is permitted only in the cases provided for in §§ 11 and 17 of this Act. The same applies to the provision of psychiatric care to a person with restricted active legal capacity and his or her treatment if the person is unable to express his or her will or if the guardian does not consent to the care or treatment. Prior to the administration of the treatment, a decision on involuntary treatment is prepared and, pursuant to § 11 of the Mental Health Act, a court ruling permitting the involuntary hospital treatment of the patient is applied for. All treatment decisions are made through doctors' consultation.

- ***an introductory leaflet/brochure to be drawn up and issued to each newly admitted patient/resident (as well as to his/her legal representative and close relatives), accompanied by appropriate verbal explanations, at the Psychiatric Clinic of the NEMC and the Koluvere Care Home (and, as appropriate, in other psychiatric/social welfare establishments in Estonia) (paragraph 145);***
- ***patients/residents to be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (paragraph 146).***

State supervision over provision of social services are organised by Social Insurance Board and this recommendations is already required to all providers of special care services.

##### Comments

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

Requests for information

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

The Mental Health Act does not provide for a separate procedure for the administration of ECT without the patient's consent. The Mental Health Act is being revised and the legislature seeks to eliminate the gap. According to § 767 of the Law of Obligations Act (Provision of health care services to patients without capacity to exercise their will), electroconvulsive therapy is administered without the informed consent of the patient in the case of acute conditions caused by mental disorders, where contact with the patient is impossible due to his or her mental state, and delay in applying the treatment would put the life of the patient at risk or significantly damage his or her health (severe catatonic conditions associated with various mental disorders and accompanied by uncontrolled anxiety or stupor, which has resulted in long-term starvation). The high efficacy of ECT in the case of such disorders has been scientifically proven. Prior to the administration of the treatment, a decision on involuntary treatment is prepared and, pursuant to § 11 of the Mental Health Act, a court ruling permitting the involuntary hospital treatment of the patient is applied for. All treatment decisions are made through doctors' consultation.

## 5. ESTABLISHMENTS UNDER THE AUTHORITY OF THE MINISTRY OF DEFENCE (BARRACKS OF THE GUARD BATTALION IN TALLINN)

### Recommendations

- ***immediate steps to be taken in the barracks of the Guard Battalion in Tallinn to improve access to natural light in the disciplinary cells. The cell which currently has no access to natural light whatsoever should not be used again until such access is provided (paragraph 152);***

The detention centre is going to be closed at the end of year 2014 - based on the State Defence Program 2013-2022. Until then, only the chambers with a window will be used, if possible.

- ***steps to be taken to ensure that every person detained for 24 hours or more is offered outdoor exercise every day; if necessary, the relevant regulations should be amended (paragraph 153).***

There are strict regulations set for everyday outdoor exercises for detainees by Battalion Commander (BC order from 11.08.2009) which ensures outdoor activities for every detainee being held in the centre 24 hours or more.

### Comments

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

Currently it is prohibited to place more than one detainee in the 7 m<sup>2</sup> cell. The 14m<sup>2</sup> cell is mainly used for 1-2 detainees, but not more than 3. If possible at a time, there is always larger cell appointed for a single detainee.

### Requests for information

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

Separate shelter and benches in the walking yard are considered not necessary in this context, since prisoners are allowed to dress themselves appropriately for weather conditions. If there is a need for a chair or other accessories, it is provided by guards according to the security regulations. Most of the cases detainees themselves do not require such a special treatment.