EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

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Report

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

from 29 May to 8 June 2023

The Government of Estonia has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2024) 27.

Strasbourg, 26 September 2024

Note: In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, names of individuals have been deleted.

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EXECUTIVE SUMMARY

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

Police and Border Guard establishments

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

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

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

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

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

As for Estonia's only immigration detention facility, located in a building adjacent to Tallinn Detention House, it had very good material conditions. However, the outdoor facilities of the admission unit consisted of a fenced-off area with no horizontal view, lacking any equipment such as a means of rest and a shelter against inclement weather. Further, foreign nationals who had been held in the facility for prolonged periods were not offered any organised activities. The Committee stressed that the longer the period for which persons are detained pursuant to aliens legislation, the more developed should be the activities which are offered to them.

Prisons

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

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

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

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

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

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

The CPT acknowledges the continuing efforts made by the Estonian authorities to provide sentenced prisoners with purposeful out-of-cell activities. It is also noteworthy that many of them benefited from an open-door regime for much of the day. By contrast, the vast majority of remand prisoners remained locked up in their cells 23 hours a day for months and, in some cases, even years on end, their only occupation being watching television, reading and playing board games. The CPT called upon the Estonian authorities to step up their efforts to broaden the range and increase the availability of out-of-cell activities (especially work, preferably with a vocational nature) for all prisoners, including those on remand. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature.

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

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

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

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

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

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

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

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

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

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

Psychiatric establishments

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

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

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

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

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

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

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

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

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

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

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

That said, the Committee pointed out two persistent legal *lacunae*: first, establishments were as a rule not informed whether newly-admitted "civil" patients had a legal guardian, which sometimes resulted in legally incapacitated patients being asked to sign the consent form without the involvement (and, indeed, the knowledge) of their guardian. Secondly, in respect of forensic patients, whilst the six-monthly reviews by the expert psychiatric commissions were duly performed and patients (as well as their lawyers and guardians) were allowed to themselves request the review of the placement measure, the legislation in force continued to fail to provide for an automatic periodic court review of the compulsory treatment measure. The CPT recommended that the aforementioned legal *lacunae* be eliminated as a matter of priority.

Military detention

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

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

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a periodic visit to Estonia from 29 May to 8 June 2023. It was the Committee's 6th periodic visit to Estonia.[1]

2. The main objective of the visit was to review the measures taken by the Estonian authorities in response to the recommendations made by the Committee after previous visits.

In this connection, particular attention was paid to the treatment and conditions of detention of persons in police custody and penitentiary establishments, especially as regards persons placed in solitary confinement. The delegation also examined the treatment, conditions and legal safeguards offered to "civil" involuntary and forensic psychiatric patients. Further, the delegation examined the treatment of foreign nationals detained pursuant to aliens legislation and of military servicemen placed in disciplinary detention.

A list of all the establishments visited by the delegation is set out in Appendix I to this report.

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

- Jari Pirjola, Head of delegation
- Vincent Delbos
- Anna Jonsson Cornell
- Sebastian Ładoś
- Alexander Minchev
- Aleksandar Tomcuk.

They were supported by Borys Wódz (Head of Division) and Paolo Lobba of the CPT's Secretariat, and assisted by:

- Eric Durand-Billaud, former Head of the Department of Physical and Rehabilitation Medicine, Brugmann University Hospital, Brussels, Belgium (expert)
- Meelis Leesik (interpreter)
- Margus Puusepp (interpreter)
- Karin Sibul (interpreter)
- Tiiu Soomer (interpreter).

4. The report on the visit was adopted by the CPT at its 112th meeting, held from 6 to 10 November 2023, and transmitted to the Estonian authorities on 24 November 2023. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Estonian authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

1. In addition, an *ad hoc* visit to Estonia took place in December 1999. All the reports on the CPT's visits and the responses of the Estonian authorities have been made public and are available on the CPT's website: https://www.coe.int/en/web/cpt/estonia.

B. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the delegation had consultations with Kalle Laanet, Minister of Justice, Riina Sikkut, Minister of Health and Labour, and other senior officials from the two aforementioned Ministries and the Ministries of the Interior and Defence.

The delegation also met Olari Koppel, Deputy Chancellor of Justice, and staff of the Inspection Visits Department of the Office of the Chancellor of Justice.[2]

Further, a meeting was held with representatives of the United Nations High Commissioner for Refugees (UNHCR) and of the Estonian Human Rights Centre.

A full list of the national authorities and other bodies met by the delegation is set out in Appendix II to this report.

6. The CPT is pleased to state that its delegation enjoyed excellent co-operation during the visit, both at the central level and locally in the establishments visited. The delegation had rapid access to all the places visited – including ones not notified in advance – as well as to documents requested, and was able to speak in private with persons deprived of their liberty.

The Committee wishes to thank in particular Keili Kondike, the CPT's Liaison Officer from the Ministry of Justice, for the assistance provided before and during the visit.

The Committee also wishes to place on record its appreciation of the initiative taken by the Estonian authorities to invite members of the NPM to be present when the delegation delivered its preliminary observations at the end of the visit.

7. Nevertheless, the CPT must recall once again that the principle of co-operation between Parties to the Convention and the Committee is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the CPT's recommendations.

In this respect, whilst acknowledging many positive developments (including as regards the material conditions of detention in most of the police and penitentiary establishments visited)[3], the Committee is very concerned by the fact that several of its long-standing recommendations remain unimplemented, especially with respect to the recourse to and the duration of solitary confinement of prisoners (on disciplinary and administrative grounds),[4] the regime and restrictions on contacts with the outside world for (in particular) remand prisoners,[5] and the prison healthcare services (especially as concerns psychiatric care and psychological assistance).[6]

At the end of the visit, senior officials from the Ministry of Justice told the delegation that many of the aforementioned issues of the CPT's concern were to be addressed in the near future, once the long-prepared legislative amendments (e.g. concerning the maximum permitted duration of disciplinary solitary confinement) entered into force.

The CPT expects that the Estonian authorities will be in a position to inform the Committee, in their response to this report, of decisive steps taken to implement the CPT's recommendations on the subjects referred to above, in accordance with the principle of co-operation which lies at the heart of the Convention.

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[2] The Chancellor of Justice (Ombudsman) is the designated National Preventive Mechanism (NPM) pursuant to the Optional Protocol to the United Nations Convention against Torture (OPCAT) in Estonia.

[3] See paragraphs 21, 23, 26, 27 and 28, as well as paragraphs 52 and 53 below.

[4] See paragraphs 81, 90 and 91 below.

[5] See paragraphs 78 to 80 below.

[6] See paragraph 71 below.

C. Immediate observations pursuant to Article 8, paragraph 5, of the Convention

8. During the end-of-visit talks with the Estonian authorities, on 8 June 2023, the CPT's delegation made two immediate observations pursuant to Article 8, paragraph 5, of the Convention.

The delegation requested the Estonian authorities to inform the Committee, within one month, of steps taken to:

- transfer the prisoner on a wheelchair (Mr H.R.) held at Tallinn Prison to a cell adapted to his reduced mobility;

- ensure that the prisoner at Viru Prison who had recently suffered from a stroke (Mr A.L.) is held in conditions which enable him to preserve his human dignity.

The aforementioned immediate observations were confirmed by letter of 16 June 2023 when transmitting the delegation's preliminary observations to the Estonian authorities.

9. On 12 July 2023, the Estonian authorities informed the CPT of the actions taken in response to these immediate observations and on other matters raised by the delegation at the end-of-visit talks. This response has been taken into account in the relevant sections of the present report.

D. National Preventive Mechanism

10. At the outset of the visit, the delegation held an exchange of views with members of the Office of the Chancellor of Justice who, as mentioned in paragraph 5 above, is the designated NPM in Estonia pursuant to the OPCAT. In this capacity, it normally conducts around 20 to 30 visits per year – many unannounced – to a variety of places of detention (prisons, police stations, social care homes, institutions for children, psychiatric or military establishments, etc.).[7] The CPT welcomes the fact that the summaries of many reports on inspections carried out in places of detention were translated into English, as were the annual reports on the activities of the Chancellor of Justice.

Six full-time officials (one position was vacant at the time of the visit) were assigned to the separate unit responsible for the NPM functions (the Inspection Visits Department). Although the NPM unit had no separate budget from that allocated to the Office of the Chancellor of Justice, this arrangement was considered by the staff as an advantageous feature providing for enhanced flexibility and sharing of expertise, and the budget was in any event sufficient to carry out the NPM mandate effectively. The Committee takes note of this.

11. In 2022, the Office of the Chancellor of Justice had received 344 complaints from prisoners.[8] As in the past,[9] the staff assigned to the NPM unit were also involved in the processing of complaints.

In this connection, the CPT recalls that it is not advisable to involve staff dealing directly with complaints in the work of the NPMs. Whenever the same institution is designated to handle complaints and to monitor places of deprivation of liberty, both functions should preferably be kept separate and performed by clearly distinct entities. **The CPT invites the Estonian authorities to review the organisation of the NPM in the light of the preceding remark.[10]**

[7] The Deputy Chancellor of Justice told the delegation that every place of detention was normally visited at least every three years. The annual reports and the inspection summaries in English are available at https://www.oiguskantsler.ee/en/annual-reports-0.

[8] The total number of complaints received in 2022 from persons deprived of their liberty was 2472.

[9] CPT/Inf (2019) 31, paragraph 9.

[10] See also paragraph 32 of the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture (SPT) on 9 December 2010 (CAT/OP/12/5).

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police and Border Guard establishments

1. Preliminary remarks

12. The legal framework for deprivation of liberty by the police has remained virtually unchanged since the CPT's last visit in 2017.[11]

Regarding *criminal suspects*, pursuant to the Code of Criminal Procedure (CCP) they can be held in police custody for a maximum period of 48 hours.[12] Within this 48-hour period, the persons concerned must be brought before a pre-trial judge, who decides on whether to detain them on remand, impose other preventive measures or order their immediate release. Persons may also be held in police custody for up to 48 hours when being suspected of having committed a *misdemeanour*.[13] For a misdemeanour, a court may impose a penalty of detention for a term of up to thirty days.[14]

Further, pursuant to the Law Enforcement Act (LEA), persons may be deprived of their liberty by the police on various *other legal grounds*, such as to prevent the commission of an imminent criminal offence and for countering an immediate threat endangering a person's life or physical integrity (both for a maximum period of 48 hours),[15] or to avert a significant threat emanating from an *intoxicated person* (for a maximum period of 24 hours).[16]

Persons deprived of their liberty by the police based on the aforementioned legal provisions may be placed in the remand section of a prison, in a police detention facility (also referred to as "detention house") or in a police station.[17]

As for the legal framework governing the *deprivation of liberty pursuant to aliens legislation*, reference is made to paragraph 31 below.

2. Ill-treatment

13. The CPT is pleased to report that, as had been the case during the previous visits,[18] its delegation received no recent credible allegations of physical ill-treatment by Police and Border Guard officers from persons who were or had been held in the custody of the aforementioned law enforcement agency.

That said, a few detained persons complained about officers having used derogatory language referring to the persons' nationality or ethnic origin. **The Committee recommends that all Police and Border Guard officers be reminded that using such derogatory language is prohibited and will be sanctioned accordingly.**

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[11] CPT/Inf (2019) 31, paragraph 11.
[12] Section 217(1) and (8) of the CCP; see also Section 130 of the CCP:
"(2) The suspect or accused may be committed in custody on an application of the Prosecutor's Office by order of the pre-trial investigating judge, or by court order, if they are likely to evade criminal proceedings or to continue to commit criminal offences and if committal in custody is an ineluctable necessity.
(3) In pre-trial proceedings, the suspect or accused may be committed in custody only for the period provided by Section 131[1] of this Code".
[13] Section 44 of the Code of Misdemeanour Procedure.
[14] Section 48 of the Penal Code.
[15] Section 46(1) and (5) of the LEA.
[16] Sections 42(1) and 43(3) of the LEA. In addition, a person may be taken to a police office for identity verification (Section 32(6) of the LEA).
[17] Persons arrested for intoxication may also be held in a sobering-up centre.
[18] CPT/Inf (2014) 1, paragraph 15; CPT/Inf (2019) 31, paragraph 15.

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

The CPT would like to receive, in respect of the aforementioned criminal and disciplinary proceedings, an account of the reasons for discontinuing the proceedings or for the imposition of criminal or disciplinary sanctions.

3. Safeguards against ill-treatment

15. The legal provisions concerning the three fundamental safeguards for persons deprived of their liberty by officers of the Police and Border Guard, namely the right to inform a person of one's choice of one's custody (notification of custody), the right of access to a lawyer and the right of access to a doctor, have remained essentially unchanged since the last CPT's visit to Estonia.[19]

16. The vast majority of detained persons interviewed by the delegation confirmed that they had been in a position to exercise their right of notification of custody shortly after apprehension. However, a few detainees claimed that they had not been informed of this right (see paragraph 19 below). Moreover, some detainees had reportedly not received feedback on whether the notification had indeed been carried out.

The CPT recommends that the Estonian authorities take steps to ensure the right of persons deprived of their liberty by officers of the Police and Border Guard (irrespective of the legal grounds) to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty.

Further, **the Committee reiterates its recommendation that detained persons be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention. The relevant legislation and/or regulations should be amended so as to oblige the Police and Border Guard to record in writing whether or not notification of custody has been performed in each individual case, with an indication of the exact time of notification, the identity of the person who has been contacted, and that the detained person has been informed of the successful notification. A waiver of the right to notify a relative or a third party should be systematically signed by the person deprived of their liberty if they do not wish to exercise that right.[20]**

17. As had been the case during the previous visits, criminal suspects interviewed by the delegation generally confirmed that they had been allowed to contact their own or an *ex officio* lawyer, and that a lawyer had been present during questioning. However, a few persons alleged that they had not been informed of their right of access to a lawyer, especially in cases where the persons did not speak Estonian (on this issue, see also paragraph 19 below).

The CPT recommends that the Estonian authorities take steps to ensure that the right of access to a lawyer (including the right to speak in private with one's lawyer with, if necessary, the assistance of an interpreter) is effectively guaranteed to all persons detained by the Police and Border Guard as from the very outset of their deprivation of liberty.[21]

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[19] CPT/Inf (2019) 31, paragraphs 18 and 20. See also Article 21 of the Constitution of Estonia, Section 217 (10) of the CCP and Section 46 (4) of the Code of Misdemeanour Procedure.

[20] See Articles 3, 5 and 6 of Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, also applicable in Estonia.

[21] See also Article 4, paragraph 4b, and Article 5 of Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings, OJ L 297, 4 November 2016, https://eur-

18. The Committee has recommended ever since its very first visit to Estonia (in 1997) that steps be taken to ensure that persons in the custody of law enforcement agencies be formally entitled and granted in practice the express right of access to a doctor as from the very outset of their deprivation of liberty (as distinct from the duty of the Police and Border Guard to ensure that detained persons receive medical assistance whenever needed). The right of access to a doctor should include the right, if the detained person so wishes, to be examined by a doctor of his or her own choice (in addition to any medical examination carried out by a doctor called by the Police or Border Guard). Regrettably, these long-standing recommendations have remained unimplemented.

The CPT once again calls upon the Estonian authorities to take the necessary measures – including at the legislative level – to ensure that all persons detained by the Police and Border Guard are entitled by law and granted in practice the right to have access to a doctor as from the very outset of their deprivation of liberty.

The relevant provisions should make clear that:

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

19. Most of the detained persons interviewed by the delegation confirmed that the Police and Border Guard officers had provided them with information on their rights. This was first (immediately upon apprehension) done orally and followed shortly after (upon arrival at the detention facility) by handing out a written information sheet (available in a wide range of languages including Estonian, Russian and English). Further, detention protocols (which were signed by detained persons) contained information on rights albeit drafted in a manner difficult to understand for persons without legal education (quotes from relevant legal provisions). As already mentioned, a few of the detained persons alleged that they had not been informed of their rights (and the delegation gained the impression that, at least in some of the establishments visited, for example at Luhamaa Border Post,[22] the provision of written information was not systematic).

In the light of the above, **the Committee recommends that the Estonian authorities ensure that persons detained by the Police and Border Guard are systematically informed of their rights in a language they understand as from the very outset of their deprivation of liberty. In particular, when written information is provided, detained persons must be asked to sign a statement attesting that they have been informed of their rights (with the indication of the precise time of arrest and of the time when information on rights was provided) and be allowed to keep a copy of the information sheet. If necessary, the absence of a signature should be duly accounted for. Moreover, particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on Police and Border Guard officers to ascertain that this is the case.**

lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L1919.

[22] See paragraph 29 below.

4. Conditions of detention

20. The delegation carried out follow-up visits to Tallinn-East Police Station and Tartu Police Station. Further, first-time visits were carried out to the new Tallinn Detention House, Kuressaare Detention House, the new Narva Police Station, Viljandi Police Station and Võru Police Station, along with Tallinn Sobering-up Centre. The delegation also visited the detention facilities of the border posts of Luhamaa and Narva.

a. police detention houses

21. At the outset of the visit, the delegation was informed by senior officials from the Ministry of the Interior that the practice of returning remand prisoners to police detention facilities for investigative purposes, criticised by the CPT many times in the past,[23] had finally been discontinued. Further, only four police detention houses (out of the previous 17)[24] remained authorised to hold detained persons in excess of 48 hours, namely those in Tallinn, Pärnu, Kärdla and Kuressaare (the latter two for purely logistical reasons, being located on the islands of Hiiumaa and Saaremaa respectively). In addition, pursuant to an agreement with the Ministry of Justice concluded in 2019, persons in police custody were, as a rule, transferred to a prison whenever they had to be held beyond the 48-hour period. The CPT welcomes these positive developments.

22. With the capacity of 130 places, Tallinn Detention House, commissioned in December 2018, was holding 30 persons at the time of the visit, six of whom were criminal suspects, four were serving a sentence for misdemeanour, one was a military conscript serving a disciplinary penalty,[25] and one (the only woman) had been apprehended for failing to appear for questioning. The remaining 18 persons had been apprehended pursuant to Sections 42 (1) and 43 (3) of the LEA (intoxication).

Kuressaare Detention House, which had recently undergone extensive refurbishment, comprised five cells (normally used for single occupancy), one of which used for holding intoxicated persons. At the time of the visit, the establishment was accommodating a remand prisoner who had stayed there upon his own request to be able to attend court hearings in person (he had been there for over a week and was to be transferred to a prison shortly); further, there was one alcohol-intoxicated person.

23. Overall, both detention houses offered adequate conditions of detention. However, Kuressaare Detention House had no exercise yard (detained persons being instead allowed to use, for up to an hour daily, the so-called “walking cell”, that is, a cell without window panes) and the yards at Tallinn Detention House were small cubicles of an oppressive design.

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

[23] See e.g., CPT/Inf (2019) 31, paragraph 12.
[24] See CPT/Inf (2005) 6, paragraph 31.
[25] See paragraph 135 below.

24. Further, given that persons could still be detained in detention houses in excess of 48 hours (e.g. those sentenced for misdemeanour[26] and, occasionally, remand prisoners),[27] **the CPT recommends that the Estonian authorities strive to eliminate this practice completely. If it is absolutely necessary and unavoidable to hold a person in a detention house for longer than 48 hours, the person concerned should be offered some means of distraction (such as access to TV or radio, books and press, and the possibility to engage in sports).**

25. Segregation for security reasons pursuant to Section 69 of the Imprisonment Act (known in the police context as "separation")[28] was sometimes resorted to at Tallinn Detention House.[29] While a specific register was properly kept to record the imposition of segregation (including the hourly checks performed by police officers and any instances of use of force), the officer in charge stated that there existed no individual written decisions on segregation, so the reasons justifying the measure and the related safeguards (e.g. possibility to challenge the decision) were not notified to the concerned person in writing. **The Committee recommends that a written decision on the imposition of segregation pursuant to Section 69 of the Imprisonment Act, setting out the grounds justifying the measure and the related safeguards, be drawn up systematically and given to the detained persons concerned.**

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

b. other Police and Border Guard detention facilities

26. The delegation was informed that the police stations of Tallinn-Centre (Kesklinn), Tallinn-South (Lääne-Harju) and Tallinn East (Ida-Harju) were no longer being used as places of detention, as apprehended persons would be brought to Tallinn Detention House immediately after initial arrest formalities.[30] Given the past CPT recommendations,[31] this is a positive development.

27. Conditions of detention were satisfactory at Viljandi Police Station; they do not call for any particular comment. The same could in principle be said of Võru Police Station; however, although the establishment occasionally held persons for up to 48 hours, it was devoid of a genuine exercise yard (instead, detainees used two "walking cells" of a design similar to the "walking cell" at Kuressaare Detention House).[32]

[26] For example, Tallinn Detention House held 222 persons sentenced for a misdemeanour in 2022 and 95 in the first period of 2023. Based on the custody registers provided to the delegation, the average length of detention was nine days.

[27] For example, at Tallinn Detention House, 2507 out of a total of 3108 detainees in 2022 (81%), and 1084 out of a total of 1338 detainees in the first five months of 2023 (81%) were detained for less than 48 hours, while 113 remand prisoners in 2022 and 61 in the first five months of 2023 were held for a period ranging from four to 15 days.

[28] See more detailed comments on this measure in the prison context (paragraphs 90 to 98 below).

[29] The measure had been resorted to 122 times in the course of 2022 and 18 times during the first five months of 2023.

[30] According to the custody registers provided to the delegation, the mentioned facilities had last been used for detention, respectively, on 26 December 2021, 12 December 2018, and 27 November 2019.

[31] CPT/Inf (2019) 31, paragraphs 33 and 34.

[32] See paragraph 23 above.

As for Narva Police Station, material conditions were mediocre. In particular, some of the cells were in a poor state of repair and cleanliness, and ventilation was insufficient in all the cells. Further, it appeared that detained persons were not given access to the exercise yard (and had to use a "walking cell" instead) and the cells for intoxicated persons were very small (measuring less than 4 m²) and had no window.[33] **The Committee recommends that steps be taken to refurbish the cells at Narva Police Station (in particular, improving the ventilation) and make sure that they are kept clean. The small cells for intoxicated persons should never be used for periods of detention exceeding a few hours (and never overnight).**

As regards access to genuine outdoor exercise at both Narva and Võru Police Stations, **reference is made to the recommendation in paragraph 23 above**, which applies equally here.

28. The delegation also visited Tallinn Sobering-up Centre, an establishment operated by the Police but employing also a number of nurses who ensured a 24/7 presence. Material conditions were generally adequate, all the cells[34] being in a good state of repair and cleanliness.

However, the delegation noted (based on interviews with the staff and detained persons, as well as the examination of relevant documentation including medical files) that Tallinn Sobering-up Centre frequently received persons who – whilst indeed under the influence of alcohol and/or other intoxicating substances – had manifest mental health problems (as demonstrated by their history of psychotic episodes, self-harm and/or suicide attempts). Reportedly, this was due to the fact that psychiatric establishments in Tallinn generally refused to admit persons in a state of intoxication.

In the CPT's view, holding such persons in an establishment without an easy access to appropriate mental healthcare, only because of their intoxication, could be considered rather questionable from a medical point of view. Furthermore, no standardised procedure was in place to assess withdrawal symptoms and calibrate the use of benzodiazepines (e.g. CIWA scale) in order to prevent serious complications such as *delirium tremens*. **The Committee would welcome the Estonian authorities' observations on this subject.**

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

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

[33] Cells Nos. 5K, 6K and 7K. According to the register examined, these cells have been used 66 times since 1 January 2022, mostly to hold persons for periods of 9 to 12 hours, many times overnight.

[34] 20 double occupancy cells (measuring approximately 10 m² each) and three single occupancy cells (measuring some 7 m² each).

c. immigration detention facility

31. The procedure for the detention and expulsion of foreign nationals is governed by the Obligation to Leave and Prohibition of Entry Act, the State Borders Act and the Act on Granting International Protection to Aliens. Persons who have not been permitted to cross the border and persons who have illegally crossed the border may be detained for grounds including risk of absconding, failure to cooperate, lack of documents, need to verify personal identity and legal basis for entry.[35] Foreign nationals may be detained by the Police and Border Guard, or the Internal Security Service, for up to 48 hours. If enforcement of a removal decision is not possible within 48 hours of apprehension, the police is required to apply to the administrative court for authorisation to place a foreigner in a detention centre for up to two months.[36] Upon request from the Police and Border Guard, the administrative court may extend the authorisation to detain for renewable periods of up to four months each.[37] The maximum time limit for detention pending deportation is 18 months from the day of placement in the detention centre.[38]

32. The delegation visited Estonia's only immigration detention facility, located in a building adjacent to Tallinn Detention House. Opened in 2018, its full official name was the Detention Centre of the Information Bureau of the Northern Prefecture of the Police and Border Guard Board (hereafter, the Centre). With an official capacity of 123 places, it was accommodating 11 foreign nationals at the time of the visit, four of whom were asylum seekers. According to data provided by the Estonian authorities at the outset of the visit, the Centre held a total of 109 persons in 2022 and 80 persons in the first period of 2023. The average length of detention in the two periods was, respectively, 40 and 15 days. That said, five of the persons held in the Centre at the time of the visit had been detained for over two months and one person for about 16 months.

33. Material conditions at the Centre were very good. All rooms were of a reasonable size (most could accommodate up to four detainees but were occupied by one or, at times, two persons), had good access to natural light and artificial lighting, and were well-ventilated and clean. They were also adequately furnished and contained detainees' personal items. Further, foreign nationals had unrestricted access to communal sanitary and shower facilities, which were in a good state of repair and cleanliness.

However, the outdoor facilities of the Centre's admission unit – in which newly-arrived foreign nationals were accommodated for the first few days – consisted of a fenced-off area with no horizontal view, lacking any equipment such as a means of rest and a shelter against inclement weather. **The Committee recommends that this outdoor area be fitted with a means of rest and a shelter against inclement weather along with, preferably, some equipment for physical exercise.**

34. As regards the regime, the CPT welcomes the fact that, during the day, foreign nationals were allowed to move freely within the Centre, including its outdoor area, which was equipped with sport facilities. In addition, they had access to communal rooms, and were able to watch television, use computers and a printer, play board games or read newspapers/books.

However, it is a matter of concern that most of the foreign nationals who had been held in the Centre for prolonged periods were not offered any organised activities. The Committee is of the view that the longer the period for which persons are detained pursuant to aliens legislation, the more developed should be the activities which are offered to them. Consequently, **the CPT recommends that steps be taken to offer a broader range of organised activities to foreign nationals held at the Centre for prolonged periods.**

[35] Section $9^1(1)$ of the State Borders Act; Section $28^2(1)$ and (10) of the Obligation to Leave and Prohibition of Entry Act. See also the grounds of detention envisaged under Section 23(1) of the Obligation to Leave and Prohibition of Entry Act and Section 36^1 of the Act on Granting International Protection to Aliens.
[36] Section $23(1^1)$ and Section $28^2(6)$ of the Obligation to Leave and Prohibition of Entry Act.
[37] Section 25(1) of the Obligation to Leave and Prohibition of Entry Act.
[38] Section 25(2) of the Obligation to Leave and Prohibition of Entry Act. See also Article 15 of the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in member States for returning illegally staying third-country nationals ("Return Directive").

35. Healthcare at the Centre was provided by two general practitioners who attended the establishment from Monday to Thursday for a combined total of 15 weekly hours (0.3 FTE[39]), and three nurses who took shifts to ensure a presence of four hours every day including weekends (0.5 FTE). The staffing level was adequate in relation to the low occupancy prevailing at the time of the visit, **but would need to be increased if a higher number of detained foreign nationals arrived at the Centre**.

Emergency medical care and transfers to hospitals as well as outside consultations were arranged whenever necessary. However, the CPT must stress the need for particular attention to be paid to the mental health and psychological state of foreign nationals in custody, some of whom are asylum seekers and may be affected by previous traumatic experiences, while others might be suffering from psychological stress while awaiting deportation. In this context, **steps should be taken to ensure that the Centre is visited on a regular basis by mental healthcare professionals, such as a psychiatrist and a psychologist**.

Furthermore, the delegation was concerned to observe that custodial staff were involved in the distribution of medication to detained foreign nationals and, sometimes, remained within hearing range during medical examinations (namely, in the consultation room or just outside the room with the door open). **The Committee recommends that steps be taken to ensure that medication is distributed exclusively by healthcare staff, and that medical examinations are conducted out of the hearing and – unless the healthcare staff expressly request otherwise in a given case – out of the sight of non-medical staff.**

36. As regards medical screening of persons arriving in the Centre, a health questionnaire was completed by a nurse. The procedure included voluntary screening for transmissible diseases (HIV, hepatitis B and C) and a basic physical examination (blood pressure, temperature, etc.), whereas there was no systematic screening for mental health antecedents. Injuries were recorded, but without inclusion of persons' statements and the doctor's conclusions regarding the origin of the injuries. No dedicated injury register was kept.

The CPT recommends that the Estonian authorities take the necessary measures to ensure that the medical screening upon arrival at the Centre:

- **enables the identification of potential mental disorders, acute and chronic diseases, infections, addiction, injuries, medication needs as well as traumatic disorders and signs of victimisation, including violence or abuse;**

- **includes the recording of any signs of injury, together with any relevant statements of the detained person and the doctor's conclusions regarding the origin of the injuries. Further, a dedicated register on injuries observed on detained persons during admission and detention should be put in place.**

37. The delegation noted that, upon admission, all foreign nationals received written information on their rights (including the right to lodge complaints)[40] and obligations, as well as a copy of the internal rules (which were available in a wide range of languages including Estonian, Russian, English and French). This was a positive practice.

[39] Full Time Equivalent.

[40] According to the written information provided to the detained foreign nationals, complaints could be submitted to the Head of the Centre, to the Director General of the Police and Border Guard Board against a decision or act of the Head of the Centre, to the Administrative Court, and to the Chancellor of Justice.

38. By contrast, the arrangements for contacts with the outside world were not fully satisfactory. Detained foreign nationals were allowed to send and receive letters, have short-term supervised visits (every day during visiting hours for up to three hours),[41] and make telephone calls using the Centre's telephones. However, there was no opportunity to have unsupervised long-term family visits.

Moreover, opportunities for contact with the outside world were further restricted by a ban on access to the Internet (except to consult legislation and visit some institutional websites)[42] and a prohibition on using personal mobile phones inside the Centre. In this regard, the CPT welcomes the recent annulment of the mobile phone ban by the Supreme Court.[43]

The Committee invites the Estonian authorities to consider extending the possibilities for foreign nationals to have contact with the outside world, including by permitting the organisation of long-term unsupervised visits, and by allowing detainees to use internet-based communication channels (such as Voice-over-Internet-Protocol).

[41] Visits had to be authorised and an application had to be lodged at least three days in advance. According to the management of the Centre, no application for a visit in the first period of 2023 had been denied.
[42] At the time when this report was adopted, proceedings were ongoing before the Supreme Court, aiming at mitigating the current restrictions on access to the Internet.
[43] See the judgment of 20 June 2023.

B. Penitentiary establishments

1. Preliminary remarks

39. In the course of the visit, the delegation visited all three operational prisons in the country, namely Tallinn, Tartu and Viru Prisons. The main objective was to review the measures taken by the Estonian authorities to implement a number of recommendations made by the Committee after previous visits. In this context, the delegation primarily focused upon the regime and activities offered to prisoners – especially remand prisoners – as well as the disciplinary and security measures.

40. The new premises of Tallinn Prison were visited by the CPT for the first time after they came into service in December 2018. As the two other penitentiary establishments recently built in Estonia, it is a modern cell-type facility, comprising a total of 604 standard cells (92 of which for women) and 89 special cells,[44] spread across five blocks in buildings interconnected via underground tunnels. With an official capacity of 1.292 places (including 102 places in the open unit), the prison was accommodating, at the time of the visit, a total of 759 prisoners, including 184 remand prisoners, 90 women (73 sentenced and 17 on remand), 3 persons sentenced of life imprisonment, and 88 prisoners in the open unit. The prison's occupancy rate (in closed regime) was 56%.

Tartu Prison was visited by the Committee once in 2003, shortly after its opening, and again in 2017.[45] With an official capacity of 993 places (including 60 places in the open unit), the prison was accommodating at the time of the visit 653 prisoners, including 75 remand prisoners, 14 life-sentenced prisoners, and 53 prisoners in the open unit. The prison also comprised an in-patient psychiatric unit with 18 beds, and a drug treatment centre. The prison's occupancy rate (in closed regime) stood at 64%.

Viru Prison, opened in 2008, was visited by the Committee in 2012 and in 2017.[46] With an official capacity of 993 places (including 75 places in the open unit), the prison was accommodating at the time of the visit 629 prisoners, including 66 remand prisoners,[47] 22 young prisoners (of whom one minor),[48] 17 life-sentenced prisoners, and 46 prisoners in the open unit. The establishment also had an 84-place reinforced security unit and a 100-place unit for young offenders. The prison's occupancy rate (in closed regime) was 64%.

41. At the time of the visit, the total official capacity of the prison estate was 2.921 places in closed regime and 237 places in open regime. As indicated above, the three prisons were far from approaching their respective maximum capacities in closed regime, with an overall average occupancy rate of 61%, one of the lowest in the European Union.[49] As for the open units, the overall occupancy rate stood at 79%, meaning that there remained 50 available places across the prison estate.[50]

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[44] 29 punishment cells, 24 isolation cells, 10 cells for persons with reduced mobility, 22 medical cells, and four cells in the Mother-and-Child Unit.

[45] See CPT/Inf (2005) 6, paragraph 51; CPT/Inf (2019) 31, paragraph 41.

[46] See CPT/Inf (2014) 1, paragraphs 41 and from 61-74; CPT/Inf (2019) 31, paragraph 41.

[47] Senior Ministry of Justice officials met at the outset of the visit told the delegation that the policy had been to avoid imprisonment of minors, save in rare and exceptional cases; this was also borne out by relevant statistical data for the year 2022 communicated to the delegation. The CPT welcomes this approach of the Estonian authorities.

[48] 'Young prisoners' are persons who at the time of enforcement of their sentence are younger than 21 years of age (Section 77 of the Imprisonment Act).

[49] See the relevant statistics concerning the EU Member States, available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Prison_occupancy_statistics.

[50] 14 available places at Tallinn Prison, seven at Tartu Prison and 29 at Viru Prison.

Given the greater potential for social reintegration inherent in this type of regime, **the Committee invites the Estonian authorities to pursue their efforts to involve as many prisoners as possible in the open prison regime.**

42. Since the last visit in 2017, the total prison population has continued to steadily decline, in line with a decades-long trend in Estonia.[51] With a total number of 1 854 inmates at the time of the present visit, the prison population decreased by 24% as compared to 2017 (when there were 2 455 inmates in closed regime) and by 45% as compared to 2012 (3 389 inmates in closed regime). The national incarceration rate has accordingly maintained its downward tendency as well, going from 250 inmates per 100.000 inhabitants in 2012, to 210 in 2017, finally reaching, in 2022 (last data available), the rate of 162 inmates per 100.000 inhabitants.[52]

That said, Estonia still has a high incarceration rate, although it has steadily continued to decline in recent years. At the outset of the visit, the Estonian authorities explained how they were exploring avenues to further reduce the imprisonment rate through a series of additional measures, such as providing alternatives to detention, expanding the capacity of the open prison units and increasing the application of parole and probation.

The CPT recommends that the Estonian authorities continue their efforts to develop non-custodial measures before the imposition of a sentence, alternatives to imprisonment and measures facilitating the reintegration into society of persons deprived of their liberty, taking into account the relevant Recommendations of the Committee of Ministers of the Council of Europe.[53] Given the low prison occupancy rate, the Committee also invites the authorities to consider repurposing the available space in the establishments to expand the opportunities for association, activities, work and education (see paragraph 62 below).

43. The CPT acknowledges the efforts made by the Estonian authorities to provide prisoners with adequate living space. In all prisons visited, prisoners were offered at least 6 m^2 in single-occupancy cells and 4 m^2 per person in multiple-occupancy cells. That said, it is matter of concern that, despite the specific recommendation repeatedly made by the Committee after its previous visits,[54] the minimum standard of living space per prisoner stipulated in the law was 3 m^2 in closed regime and 2,5 m^2 in open regime.[55]

The CPT once again calls upon the Estonian authorities to raise the legal minimum standard of living space per prisoner in multiple-occupancy cells to 4 m^2 (not counting the area taken up by in-cell sanitary facilities) without any further delay.

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[51] According to data from the Estonian Prison Service Overview for 2022, see https://www.vangla.ee/sites/www.vangla.ee/files/elfinder/dokumendid/vt_2022_ulevaade_inglise_keeles.pdf, in 2022 the average prisoner was a 40 years old native Russian speaker, serving a sentence for at least the 4th time. The average length of the sentence was 5 years and 6 months, the median length 3 years and 6 months. The most common offences committed by prisoners were drug trafficking (23%), bodily harm (11%), drink driving (10%), and theft (9%). 17% of prisoners were remanded in custody. On the possible reasons for such a decrease in prison population, see CPT/Inf (2019) 31, paragraph 43.

[52] Data from SPACE I project Annual Report, based on prison stock indicators on 1 January 2022 (reference is made to the "adjusted prison population rate"). On the aforementioned date, the average incarceration rate in the Council of Europe countries was 108 inmates per 100.000 inhabitants, with the median rate being 98 inmates per 100.000 inhabitants.

[53] 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 Rec (2014) 4 on electronic monitoring, and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules.

[54] See e.g., CPT/Inf (2019) 31, paragraph 42; CPT/Inf (2014) 1, paragraphs 43 and 44.

[55] Rule 6 (6) of the Internal Prison Rules.

44. As regards legislative developments affecting the prison system, the Committee was informed that a draft law was under discussion, the purpose of which was to decrease the maximum legal duration of disciplinary isolation,[56] allowing, as a rule, prisoners in disciplinary isolation to receive short-term and long-term visits,[57] increasing the duration of short-term visits for all categories of prisoners[58] and making it easier for prisoners to submit complaints.[59] **The CPT recommends that the aforementioned legislative amendments be adopted as a matter of priority.**

45. The Committee also takes note of a recently adopted law, which mandated the transfer of responsibility for healthcare services in detention facilities from the Ministries of Justice and Interior to the Ministry of Health. According to the aforementioned law, prison healthcare services will be provided by the National Health Service as from 1 July 2024. This issue will be addressed in more detail in the relevant section below (see paragraph 64).

2. Ill-treatment

46. As during the previous visit, the delegation received hardly any allegations of physical ill-treatment by staff in the penitentiary establishments visited. In general, staff-prisoner relations appeared free from visible tensions, except for situations when staff had to deal with prisoners placed in either disciplinary or security isolation (see below and paragraphs 81 to 98).

In particular, at Viru Prison, a few allegations were heard about excessive use of force by prison officers in the context of incidents involving prisoners considered by staff to be challenging and who had been spending very long periods in either disciplinary or security isolation (see paragraphs 82, 83 and 91 below). A few prisoners told the delegation that they had been kicked and punched to the back, acts which had allegedly been inflicted once the person concerned had been brought under control and was lying prone on the floor. Prisoners who made these allegations had reportedly been subjected to physical coercion or other coercive or restraining means, including tight handcuffing behind their back.[60] In some cases, prisoners referred to physical coercion and restraint measures having been applied by the establishment's intervention group, which was said to have operated while wearing riot gear.

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

48. In the light of the observations in paragraphs 46 and 47 above, **the CPT recommends that it be reiterated in a firm and unequivocal manner to custodial staff in the three prisons visited that any forms of ill-treatment of prisoners, including verbal abuse, are illegal, unacceptable and will be the subject of sanctions proportional to the severity of the offence.**

[56] See paragraph 85 below.
[57] See paragraph 88 below.
[58] See paragraph 78 below.
[59] See paragraph 106 below.
[60] In one case, the delegation counted over 700 instances of use of force or restraining measures in 2022 and 2023 against the same prisoner.

49. From the information gathered during the visit, there does appear to be a continuing need to provide improved training for custodial officers. Whilst fully acknowledging the difficulties that prison staff may face in dealing with persistently uncooperative and/or aggressive prisoners (and whilst understanding that security and good order must be maintained in any penitentiary establishment), the CPT has stressed many times in the past that more effective and durable security may be achieved by promoting constructive staff-prisoner relations which, by consequence, contribute not only to developing a better working and living environment (based upon the dynamic security approach)[61] but also to supporting prisoners' social reintegration.

Consequently, **the Committee recommends that more emphasis be placed on training prison officers on how to manage challenging prisoners and, if recourse to use of force is necessary, how to apply control and restraint measures in a professional manner which does not result in injuries to either the staff or the prisoner concerned. Training should include verbal communication and de-escalation techniques, particularly in respect of prisoners who, due to long periods of isolation, are susceptible to developing psychosocial vulnerabilities**.

50. In the past, the CPT has criticised the lack of independence of the body in charge of investigations into allegations of ill-treatment by prison staff.[62] During the 2023 visit, such investigations continued to be carried out by Internal Control Units created in each prison, which processed prisoners' crime reports (and, until recently, prisoners' complaints) relating to staff misconduct and conducted disciplinary or criminal proceedings against prison officials.[63] The Units belonged to the Prison Department and operated under the control of a central unit, the Head of which reported directly to the Deputy Secretary-General of the Ministry of Justice, who was the Head of the Prison Department. Decisions to discontinue an investigation could be challenged by prisoners before the Prosecutor.

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

[61] Dynamic security is the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners (see Rule 51 of the European Prison Rules, and paragraph 18.a of the Recommendation Rec (2003) 23 of the Committee of Ministers of the Council of Europe to member states on the management by prison administrations of life sentence and other long-term prisoners). Dynamic security also implies an adequate offer of constructive activities.

[62] CPT/Inf (2019) 31, paragraph 46. See also the UN Human Rights Committee, Concluding observations on the fourth periodic report of Estonia, 18 April 2019, CCPR/C/EST/CO/4, paragraph 19, expressing concern at "the significantly low number of convictions for torture and ill-treatment".

[63] The Internal Control Units processed a total of around 847 prisoners' complaints in 2022 and around 349 prisoners' complaints in the period from 1 of January 2023 to 26 May 2023. Most complaints concerned conduct by staff, prison regulations and provision of medical care, but the Estonian authorities were unable to provide the number of complaints specifically made about alleged ill-treatment. The Internal Control Units also processed a total of 57 crime reports in 2022 and 40 crime reports in the mentioned first period of 2023. The vast majority of crime reports related to allegations of ill-treatment under Section 324 of the Penal Code and unlawful use of force under Section 291 of the Penal Code. No disciplinary or criminal proceedings have been instituted on the basis of those prisoners' complaints and crime reports. The Internal Control Units started on its own initiative disciplinary proceedings in two cases in 2022 and six cases in the first period of 2023, and criminal proceedings in three cases in 2022 and five cases in the first period of 2023. Six officials in 2022 and five officials in the first period of 2023 resigned before the institution of a disciplinary procedure against them.

51. From the information gathered during the visit, it transpired that inter-prisoner violence, though not a major issue, did exist, especially at Tartu and Viru Prisons.[64] While staff appeared to be generally proactive in preventing and, when incidents occurred, appropriately dealing with such cases, **the CPT invites the Estonian authorities to remain vigilant as regards incidents of inter-prisoner violence and intimidation and make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation. Achieving this objective will require improving the training of custodial staff in dynamic security (see paragraph 49 above).**

3. Conditions of detention

a. material conditions

52. With the opening of the new Tallinn Prison in December 2018, the process of total renewal of the Estonian prison estate, initiated in 2002 with the entry into service of Tartu Prison,[65] has been completed. Thanks to substantial efforts by the Estonian authorities, all penitentiary establishments inherited from the Soviet era, which had been unsuited to provide adequate conditions of detention, had been replaced with contemporary up-to-standard building complexes. As a result, the Estonian prison estate has accomplished its transition from facilities based on large-capacity dormitories – which had in the past facilitated the development and maintenance of informal prisoner hierarchies – to modern cell-type prison accommodation. The CPT wishes to congratulate the Estonian authorities on this important achievement (see also paragraph 40 above).

53. Taking into account the aforementioned complete renewal of prison estate, the CPT's delegation found the material conditions to be generally good in the three prisons visited. Cells (in most cases in a good state of repair) were of an adequate size for the stated occupancy,[66] had good access to natural light, suitable furniture as well as clean sanitary facilities.

That said, there were some exceptions to this positive situation, namely as concerns a few of the cells used for disciplinary or security isolation (see paragraphs 87 and 93 below).

54. While overall material conditions do not call for any particular comment, a few shortcomings remained in the three establishments visited.

First, as had been the case during the 2012 and 2017 visits,[67] the delegation received many complaints that ventilation was inadequate, especially from prisoners accommodated in cells the windows of which could not be opened. **The CPT reiterates its recommendation that the Estonian authorities take the necessary measures to ensure that all cells have adequate access to fresh air.[68]**

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[64] Interviews with several prisoners as well as analysis of medical files at Viru Prison revealed that there had been numerous recent cases of inter-prisoner violence (at least 11 recorded injuries in the two months preceding the visit), a phenomenon openly acknowledged by prison staff.

[65] CPT/Inf (2005) 6, paragraphs 42 and 44.

[66] Most standard cells in the Estonia's three prison facilities measured some 10 m^2, in addition to a fully-partitioned sanitary annexe of approximately 1.5 to 2 m^2, and accommodated one to two prisoners. It follows that the amount of living space was good for single occupancy and acceptable for double occupancy.

[67] CPT/Inf (2014) 1, paragraph 62; CPT/Inf (2019) 31, paragraph 49. While in the past this type of complaint was received at Viru Prison, in the present visit the delegation heard it from prisoners of all establishments visited.

[68] See also the United Nations General Assembly Resolution A/RES/76/300 of 28 July 2022 recognising "the right to a clean, healthy and sustainable environment as a human right".

Second, in the three prisons, outdoor exercise facilities for remand prisoners continued to be inadequate (as were those for prisoners on disciplinary or security isolation). They consisted of bare and oppressive concrete cubicles (measuring between 15 and 22 m^2 and covered with metal grilles) to which prisoners had access cell by cell. None of the facilities offered horizontal view, but they were equipped with a bench under concrete or metal slats providing some shelter from inclement weather. **The Committee recommends that steps be taken to ensure that all prisoners have the possibility to take their daily outdoor exercise in conditions which enable them to physically exert themselves; all the exercise yards should, in principle, offer a horizontal outside view. The Estonian authorities are also invited to explore the possibility of enlarging the yards (for example by merging two adjacent yards) and installing windows in the concrete walls.**

55. At Tallinn Prison, the delegation met a prisoner on a wheelchair who was accommodated in a cell that was not adapted for persons with reduced mobility. While the delegation noted that the fellow prisoner in question had been designated by staff (and remunerated) to help the wheelchair user, the delegation considered the situation to be unacceptable and, as already referred to in paragraph 8 above, made an immediate observation on this subject at the end of the visit.

In their letter dated 13 July 2023, the Estonian authorities submitted a written statement from the prisoner in question, in which he expressed his preference for remaining in his present cell. The authorities also declared that "According to the Medical Department, transferring [the prisoner concerned] to an adapted cell is not medically indicated, as he uses the wheelchair only as a mobility aid and he is able to walk shorter distances without using it. For example, he can use the toilet by himself without problems and he goes on the daily walks outside with the help of crutches. Since the current cell is smaller compared to the adapted cell, it helps and motivates [him] to move around it without using the wheelchair and this kind of movement is beneficial for the joints in preventing further damage. Therefore, [he] has not been transferred to the adapted cell. If there are any changes in current circumstances, his placement will be reviewed accordingly and necessary action will be taken".

The CPT welcomes the fact that the Estonian authorities sought the prisoner's advice in considering whether he should be transferred to another cell. It also takes note of the assessment made by the Medical Department and trusts that, as stated, the situation will remain under medical supervision.

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

The delegation noted that, unlike in 2017,[69] all prisoners were provided with adequate clothing and a sufficient supply of personal hygiene products. The CPT welcomes this positive development.

57. At Tallinn Prison, the delegation visited the Mother-and-Child Unit. Comprising four cells (each providing room for a mother and a child), at the time of the visit the Unit was vacant, the last prisoner having been transferred to the open unit a few months prior.

Material conditions in the Unit were good, with appropriate living space and dedicated equipment in the cells, including toys, for infants. The large common area included a kitchenette, a laundry and a play area. A shortcoming, readily acknowledged by the staff, was a strong echo effect. **The Committee invites the Estonian authorities to address this problem (for example, by installing appropriate sound absorption panels).**

[69] CPT/Inf (2019) 31, paragraph 51.

b. regime

58. The CPT acknowledges the continuing efforts made by the Estonian authorities to provide sentenced prisoners with purposeful out-of-cell activities. It is also noteworthy that many of them benefited from an open-door regime for much of the day.[70]

59. According to the documentation received during the visit, in 2022, 341 sentenced prisoners nationwide (372 in 2021) were engaged in *work* – mostly full time[71] – at two state-owned enterprises,[72] a figure representing 23% of the overall population of sentenced prisoners in closed regime. A further 1.656 sentenced prisoners were involved in internal prison work, mostly cooking and cleaning. As in the past, in order to comply with a legal requirement obliging all sentenced prisoners to work,[73] chores were divided among prisoners to such an extent that weekly working time was very limited – at times hardly a few hours – in the majority of the cases.[74]

As for *education*, during the school year 2021/22, 82 sentenced prisoners attended elementary school, 64 attended high school, and one attended tertiary education.[75] 155 sentenced prisoners had started *vocational training*, comprising courses on welding, tiling, carpentry, landscape architecture, computer skills, sewing, cleaning and cooking.[76] It is noteworthy though that, usually, between a third and a half of a course's initial attendees would fail to graduate. Estonian language classes involved 527 sentenced prisoners in 2022 (106 of whom had passed the course) and 248 in the first five months of 2023.[77]

Concerning *social work activities and counselling*, 897 sentenced inmates had participated in programmes such as "Lifestyle training" (for persons with addictions in preparation for their reintegration into the community), "Anger management program", and "Right moment" (pre-release offender behaviour programme) in the course of 2022. Each programme had generally consisted of a series of weekly or biweekly 3-hour sessions spanning several months, adding up to about 20 hours in total.

In the three establishments visited, *sports* and various other *recreational activities* (e.g., art, music, hobbies, events related to public holidays) were available, but only a limited number of prisoners benefited from the latter, more structured, activities.

[70] Cell doors in regular accommodation blocks were normally open from 8.30 a.m. to noon in the morning and from 1 p.m. to 7.30 p.m. in the afternoon. During those time frames, prisoners were free to move within their wing, while outdoor time had varying schedules depending on the accommodation block concerned.

[71] For example, at Tallinn Prison, out of the 81 prisoners involved in work, 71 worked for at least 20 hours per week, while 10 had casual jobs that depended on a fluctuating market demand; at Viru Prison, all the 58 prisoners employed by *AS Eesti Vanglatööstus* (Estonian Prison Industry) worked for 35 hours per week.

[72] The vast majority of prisoners were employed by *AS Eesti Vanglatööstus* (Estonian Prison Industry), a state enterprise that focused on offering employment to prisoners; a few others worked for *Riigi Kinnisvara AS*, a real estate state enterprise.

[73] Pursuant to Section 37 of the Imprisonment Act, sentenced prisoners (up to the age of 63) are obliged to work, unless they are exempted from work for medical reasons or are taking part in educational or vocational training activities. Section 38 of the Imprisonment Act imposes a duty on the prison service to ensure, if possible, that prisoners be provided with work or at least be involved in prison housekeeping duties.

[74] For example, at Tartu Prison, at the time of the visit, only 66 out of the total of 247 sentenced prisoners involved in internal prison employment were working for at least 20 hours per week. At Viru Prison, the number of prisoners doing housekeeping work for at least 20 weekly hours was 93.

[75] In-prison schooling followed the same curricula and the total number of hours as public schools in the outside community. On average, elementary school classes took place during 18 to 24 hours per week; individual tuition (following a simplified curriculum) took place during 10 to 13 hours per week; as for the general secondary school, lessons took place during 22 to 25 hours per week.

[76] There were between 32 and 38 hours of vocational training courses per week. In addition, at Tallinn Prison, 58 prisoners attended an EU-funded training course on forklift operation; other externally funded courses included a construction work course at Tartu Prison (12 inmates) and a computer skills course at Viru Prison. Being project-based, the continuation of those externally-funded training courses was not guaranteed beyond 2023.

[77] The language course consisted of nine hours' classes per week, three to four times per week, adding up to 120 hours (level A1) or 240 hours (levels A2, B1, B2) in total.

60. In conclusion, approximately 35 to 40% of the sentenced prisoners were engaged in sufficiently regular work, although, for many, assigned tasks primarily consisted of maintenance and housekeeping. In addition, around 20% of sentenced prisoners attended formal education or vocational training,[78] and about a half of the sentenced prisoners were at least occasionally involved in social and behaviour management programmes. Whereas those figures reflect the efforts of the Estonian authorities to increase the availability and variety of purposeful activities, several sentenced prisoners told the delegation that education and (meaningful) work opportunities were hard to obtain due to limited availability, a fact confirmed by the prison management.

61. Turning to the situation of remand prisoners, the CPT regrets that, as in the past, the *work* and *educational opportunities* offered to them have remained very limited in all the establishments visited, involving no more than 5-10% of prisoners concerned, mainly in housekeeping duties. Participation in *social programmes and activities* was equally restricted. Furthermore, as the daily hour of *outdoor exercise* took place in small concrete cubicles (see paragraph 54 above), remand prisoners were usually not allowed to use the existing sports facilities.

It follows that the vast majority of remand prisoners remained locked up in their cells during 23 hours a day for months and, in some cases, even years on end,[79] their only occupation being watching television, reading and playing board games. Furthermore, as repeatedly criticised by the CPT in the past, the Imprisonment Act prohibited remand prisoners to communicate with inmates from other cells.[80] For remand prisoners accommodated in single-occupancy cells, this impoverished regime amounted to solitary confinement.[81]

The Committee is extremely concerned that the situation of remand prisoners has remained unaddressed for so many years, all the more so given that newly built establishments do not pose significant structural obstacles to the lifting of the blanket restrictions on the movement and communication possibilities of remand prisoners.

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

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

63. In the unit for young prisoners at Viru Prison, cell doors were as a rule open for a total of about nine hours per day (including one and a half hours for outdoor exercise). Most prisoners were involved in some type of *work* activity, although the majority of them had been so for less than 10 hours a month on average in the first period of 2023. In addition, young prisoners benefited throughout the day from a range of *educational, social and recreational activities*. For example, regarding education, in the course of the school year 2022/23 seven young inmates attended primary or secondary school, three vocational training and seven Estonian language courses; furthermore, 18 places in social programmes in the first five months of 2023 and 48 places in 2022 were filled by sentenced young prisoners.

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[78] Not counting the Estonian language courses.

[79] For example, 31 remand prisoners at Tallinn Prison and 20 at Viru Prison had been detained for longer than a year.

[80] Section 90 (3) and (5) of the Imprisonment Act. Remand prisoners could, according to the law, leave their cells to work or study; yet, as mentioned, such opportunities were available to very few remand prisoners.

[81] See also, for example, the report of the Estonian NPM (Chancellor of Justice) on the inspection visit to Tallinn Prison, 25 July 2022, No 7-7/220238/2203924, at p. 4, and the report on the NPM inspection visit to Viru Prison, 16 May 2022, No. 7-7/212257/2202614, at p. 4.

Young prisoners were involved in a six-prong motivational programme according to which certain benefits (such as increased opportunities for activities and sport up to a few hours' out-of-prison family time) were granted as a reward for good behaviour. Those interviewed by the delegation, however, declared that the offer of meaningful activities was insufficient, leaving them most of the time idle and unoccupied, save for bodybuilding and TV watching. They also complained about the very short time outside the prison that the motivational programme envisaged as the highest reward.

The CPT recommends that steps be taken to ensure that all young prisoners are offered the possibility of daily outdoor exercise of at least two hours. Furthermore, the Committee recommends that young prisoners be enabled to spend at least eight hours a day outside their cells and participate in programmes of purposeful and structured activities tailored to their individual needs and intended to fulfil the functions of education, personal and social development, vocational training, rehabilitation and preparation for release in the light of Recommendation Rec (2008) 11 of the Committee of Ministers on the European Rules for juvenile offenders subject to sanctions or measures.

The CPT would also like to receive the observations by the Estonian authorities on the treatment of young prisoners, as well as detailed information on the authorities' plans to expand the programme of activities for young offenders.

4. Healthcare services

64. At the time of the 2023 visit, prison healthcare services were still under the responsibility of the Ministry of Justice. However, recently adopted legislation provided for the transfer of the responsibility for prison healthcare services from the Ministry of Justice to the Ministry of Health as of 1 July 2024. The delegation was informed that concrete measures to operationalise this decision were being discussed in a working group.

In principle, the CPT supports this development, which corresponds to a Europe-wide trend.[82] In particular, the Committee is of the view that a greater involvement of the Ministry of Health in this area (including as regards recruitment of healthcare staff, their in-service training, evaluation of clinical practice, certification and inspection) can help ensure optimum healthcare for prisoners and implement the general principle of the equivalence of care in prison with that of the wider community.

However, the transfer of responsibility must be accompanied by the allocation of adequate financial means, the development of strategies to fill the numerous vacancies of healthcare staff (e.g. improved working conditions, increased salary scale, etc.) and the establishing of good communication channels between healthcare and custodial staff.

The CPT would like to receive detailed information on the implementation of this transfer of responsibility in the Estonian prison context, including on the measures envisaged to ensure an adequate standard of healthcare services under the new arrangement.[83]

[82] See, for example, Recommendation No R (98) 7 of the Committee of Ministers of the Council of Europe to member States concerning the ethical and organisational aspects of healthcare in prison.

[83] Also as regards the allocation of adequate human resources (see paragraphs 65 and 71 below).

65. Healthcare staffing levels were adequate in theory, but were adversely affected by generally high vacancy rates, with the exception of Tartu. At the time of the visit, Tallinn Prison benefited from the equivalent of 21.9 full-time positions (FTE) for healthcare staff out of 37.3 theoretical posts (i.e. a 41% vacancy rate), Tartu Prison had 31.3 FTE filled out of 37 posts (a 15% vacancy rate) and Viru Prison had 22.1 FTE filled out of 34.5 posts (a 36% vacancy rate).[84]

At *Tallinn Prison*,[85] the healthcare team comprised four general practitioners, one dentist, about 20 nurses as well as a number of part-time specialists. However, as the Head doctor had just resigned, that post was vacant. During the day, eight nurses were present, whereas one or two nurses ensured the continuity of care during the weekends and at night.

At *Tartu Prison*,[86] medical services were provided by two general practitioners (1.5 FTE combined, of which 1 FTE filled) in addition to an adequate number of nurses (one in each living unit, along with the one attached to the Psychiatric Unit) and a range of part-time specialists. It is noteworthy that, at *Viru Prison*,[87] the posts of two part-time general practitioners were vacant.

The aforementioned staff shortages had an inevitable negative impact on prisoners' access to medical care, in particular specialist care. For example, a person held at Tallinn Prison received treatment for hepatitis C infection six months after the diagnosis, and only following many requests, some of which filed by his lawyer. It appeared that several other prisoners at Tallinn Prison were experiencing delays in accessing specialised treatments. **The CPT would welcome the Estonian authorities' observations on this subject.**

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

66. The healthcare facilities and the supply of medication were, on the whole, very good in the three prisons visited, with only a few exceptions such as the aforementioned delayed access to treatment for hepatitis C. All the healthcare units of the prisons visited were suitably equipped, including with basic life-saving equipment such as defibrillators.

67. In the three prisons visited, newly arrived prisoners were subjected within 24 hours of arrival to medical screening by a nurse (reporting to a doctor) who collected the medical history of the prisoner and performed a basic physical examination. The examinations also included screening for injuries, suicide risks, substance use and mental health issues. All newcomers underwent a chest X-ray and testing for several diseases such as Covid-19, tuberculosis, HIV, and hepatitis B and C. Tallinn Prison benefited from the services of an external gynaecologist, who was called in whenever a new female prisoner arrived.

[84] Posts were considered as filled when concerned staff were declared to be in active service.
[85] Capacity 1292 places, population 759 inmates at the time of the visit.
[86] Capacity 993 places, population 653 inmates at the time of the visit.
[87] Capacity 993 places, population 629 inmates at the time of the visit.

68. Injuries observed on prisoners were systematically recorded by a nurse and, generally, properly described (even though the dimension and type of injuries was not always specified). The doctor would sign the medical record and, when present, occasionally perform the recording of injuries. However, the statement of the prisoner concerned as to the origin of the injuries was absent, as were *a fortiori* the doctor's observations as to the consistency of any such statement with injuries recorded, and the pictures of the injuries were only taken when so requested by the officers in charge of investigations. Moreover, there was no specific register for traumatic injuries, which were only recorded in the prisoner's individual medical files.

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

- **the record drawn up after the medical examination of a person held in prison contains: i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), ii) a full account of objective medical findings based on a thorough examination, and iii) the healthcare professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;**

- **any traumatic injuries observed in the course of medical examination are photographed in detail and the photographs are kept, together with the "body charts", in the person's individual medical file;**

- **the results of every examination, including the above-mentioned statements and the healthcare professional's conclusions, are made available to the person concerned and, upon their request, to their lawyer;**

- **traumatic injury reports relating to injuries likely to have been caused by ill-treatment (even in the absence of statements) are automatically forwarded to the independent body empowered to conduct investigations, including criminal investigations, into the matter;**

- **a special register of all traumatic injuries is introduced and properly kept at all prison establishments.**

69. As far as the delegation could ascertain, the medical files were properly kept in the prisons visited. By contrast, the confidentiality of medical consultations was not always respected, as in some cases the door of the medical room was not closed when prisoners were examined by a healthcare professional, with a guard remaining within hearing range. When consultations concerned prisoners confined to a disciplinary or locked up cell, they often occurred through the cell door hatch or in the doorway. Furthermore, requests for medical appointments were usually made in writing and given to prison officers.

In the CPT's view, in order to enhance the confidentiality of such requests, it would be desirable to introduce more appropriate procedures, for instance by arranging daily rounds of nursing staff in all detention areas to collect requests for medical consultations or by introducing dedicated locked letterboxes for requests for medical consultations to which only members of the healthcare team would have access.

The Committee recommends that steps be taken to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. The practice of holding medical consultations through the food hatch or in the doorway should be discontinued immediately.

70. As had been the case in the past, the delegation observed in the three prisons visited that medication was prepared by nurses and distributed by custodial staff (except for psychotropic drugs, administered by nurses). Such practices clearly constitute a breach of medical confidentiality and compromise the perception of the professional independence of prison healthcare staff. **The CPT recommends that steps be taken to ensure that medication is always distributed by healthcare staff.**

71. As for staff in charge of mental healthcare, the data provided by the Estonian authorities and the prison management revealed that understaffing remained a serious issue in the three penitentiary establishments visited.

At the time of the visit, *Tallinn Prison* employed two part-time psychiatrists (0.7 FTE combined), thus leaving 1.3 FTE psychiatrists' posts unfilled. It was positive, however, that a full-time psychiatric nurse had been recruited. At the Psychiatric Unit of *Tartu Prison*, the number of nurses was adequate (4 FTE), but out of the 3.5 FTE psychiatrists' posts, only 1.7 FTE were filled, which was clearly insufficient. The staffing situation was problematic also at *Viru Prison*, in which only less than 10% of the two psychiatrists' posts were occupied – what roughly translated into a half-day presence per week – and the two posts for clinical psychologist were vacant. That said, a psychiatrist was specifically contracted to take care of the young offenders held at Viru Prison, even though the consultations (generally on a monthly basis) sometimes took place via video link. **The CPT trusts that the above-mentioned vacant posts will be filled in due time.**

The delegation received numerous complaints from prisoners of all the establishments visited regarding difficulties and delays in obtaining access to mental healthcare. Many prisoners (especially but not only at Viru Prison) complained that psychiatric consultations sometimes took place via video link.

72. The conditions at the Psychiatric Unit of Tartu Prison were the same as in 2017.[88] With a capacity of 18 beds allocated among ten cells, at the time of the visit the Unit was accommodating five patients, two of whom (as far as the delegation could ascertain) were undergoing forensic psychiatric assessment whilst the others had developed a mental illness during imprisonment. The Unit was usually staffed by two custodial staff and a nursing presence was ensured around the clock.

As in 2017, patients were locked up alone in their rooms all day, apart from one hour of daily outdoor exercise which patients could take alone in a small outdoor cubicle with no horizontal view (see description in paragraph 54 above). Thus, patients were *de facto* held in solitary confinement. They were offered no therapeutic activities and only some means of distraction such as TV, radio, books and puzzles. There was no visible evidence of the presence of an "activity manager", the recruitment of whom had been announced by the Estonian authorities in their response to the report on the CPT's 2017 visit.[89]

The CPT reiterates its recommendation that steps be taken to ensure that patients accommodated at the Psychiatric Unit of Tartu Prison (even for a relatively short time) benefit from a range of recreational and therapeutic out-of-cell activities (in addition to pharmacological treatment) and are, as far as possible, allowed to associate with other patients (if necessary under supervision).

73. Inmates' addiction to substances (mainly alcohol and drugs) remained a challenge for the Estonian prison system. In this context, the delegation noted that opioid agonist treatment (OAT) for prisoners with substance use problems (methadone) was generally available, with prescriptions made by a psychiatrist after an initial assessment by a nurse. Some prisoners were offered a detoxification programme on a voluntary basis. However, OAT was not available to those who were not involved in a rehabilitation programme in the community. Moreover, no protocol existed regarding the treatment of withdrawal syndrome upon arrival in prison, which was dealt with on a case-by-case basis by a psychiatrist. Very limited to no psychological assistance or rehabilitation programmes were available, including at the "Drug-free Unit" at Tartu Prison.[90]

[88] CPT/Inf (2019) 31, paragraph 62.
[89] CPT/Inf (2019) 31, paragraph 63.
[90] The delegation paid a brief visit to the "Drug-free Unit" at Tartu Prison, located in the "S" detention block,

In sum, the delegation gained once again the impression that the prison system in Estonia had yet to develop a comprehensive policy to effectively combat the problem of substance use by inmates.[91] In this context, the Committee must reiterate its view that the management of prisoners with a substance use problem must be varied – eliminating the supply of drugs into prisons, dealing with drug use through identifying and engaging users, providing them with treatment options and ensuring that there is appropriate through care, developing standards, monitoring and research on drug issues, and the provision of staff training and development – and linked to a proper national prevention policy. This policy should also highlight the risks of HIV or hepatitis B/C infection through injecting drugs and address methods of transmission and means of protection. Regarding the opioid agonist treatment in operation at Tartu Prison, the dose of methadone prescribed as maintenance should be that required to stabilise a prisoner's drug use to the extent that the inmate injects or uses opiates less frequently and remains in contact with addiction services.

The CPT reiterates its recommendation that the Estonian authorities develop and implement a comprehensive policy for the provision of assistance to prisoners with substance use problems (as part of a wider national strategy) including harm reduction measures and rehabilitation programmes. It also recommends that opioid agonist treatment be made accessible also to prisoners who are not involved in a rehabilitation programme in the community and that, for all prisoners on a methadone maintenance programme, the dosage be subject to regular supervision and review by the doctor in charge.

74. As already mentioned above (see paragraph 8), at the Medical Unit of Viru Prison the delegation met a prisoner who had recently suffered from a stroke. Being unable to either stand or sit, he was confined to his bed, had acute difficulties to talk and was incontinent. He was reliant on another prisoner to use the toilet, take a shower and even eat (liquid) food. In addition, he had no access to specialised care provided in the community (physical therapy, speech therapy, etc.). While the delegation was informed that proceedings for release on health grounds (compassionate release) were ongoing before the Medical Commission, it considered that this unacceptable state of affairs could not be allowed to continue and made an immediate observation, requesting that the Estonian authorities take immediate steps to ensure that the prisoner in question be held in conditions which enable him to uphold his dignity.

By letter of 13 July 2023, the Estonian authorities informed the CPT that, unfortunately, the prisoner concerned had died a few days before the date set by the court for his release on health grounds.[92] The authorities specified that, during the time spent in prison, he had received proper medical care and personal assistance and that, accordingly, he had been held in dignified conditions.

Whilst the CPT has no reason to doubt that the treatment received in prison by the prisoner in question was the best possible under the circumstances, it considers it very important that proceedings for compassionate release are conducted as speedily as possible and take into account the seriousness of the prisoner's medical condition. **The Committee invites the Estonian authorities to make every reasonable effort to ensure that this is always the case.**

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

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which, having a capacity of 263 places, was accommodating 189 prisoners. The material conditions of the cells were adequate and do not call for particular comment, the only difference with cells in regular sections being that the showers (to which prisoners had access on a daily basis) were outside the cells. Activities remained extremely limited except for association in a common area equipped with some distractions (e.g., table tennis, board games). The unit was said to be regularly visited by an outside NGO specialised in alcohol addiction, named "AURA".

[91] See CPT/Inf (2011) 15, paragraph 80; CPT/Inf (2014) 1, paragraph 87.

[92] The Estonian authorities informed the CPT that the court hearing had taken place on 12 June 2023 and that, according to an order issued on 20 June 2023, the prisoner concerned was to be released on 4 July 2023.

5. Other issues

a. prison staff

76. Prison staff shortages were conspicuous across all units in the prisons visited, especially at Tallinn and Viru Prisons, in which the overall vacancy rate of prison officials was around 30%.[93] More specifically, between 24% and 32% of the theoretical posts for custodial staff were vacant at those establishments, the staffing situation being relatively better at Tartu Prison.[94] The high vacancy rate (reaching 46% at Tallinn Prison) among the so-called "contact officers" (i.e. staff working in direct contact with prisoners)[95] was of particular concern, as it had a negative impact on many aspects of prison life (e.g. the admission process and provision of information to newly-arrived prisoners, processing of prisoners' requests and preparing various reports and assessments concerning inmates' conduct, maintenance of staff-prisoner communication). They are also those who should engage the most with prisoners in solitary confinement to ensure a modicum of human interaction (see paragraph 96 below).

Custodial staff shortages were particularly acute during night shifts and on weekends.[96] For example, at Viru Prison, the night shift had been understaffed by 30% in the two weeks immediately preceding the delegation's visit, and the establishment's management informed the delegation that this was the usual situation. In the three prisons, the management stated that they had to reduce custodial staff presence at night to the bare minimum, beyond which it would no longer be possible to ensure full control of their respective establishments. Some of the prison officers told the delegation that, due to such critically low custodial staff presence at night, it would be impossible to organise a second convoy in case of a medical emergency requiring immediate hospitalisation, if a first convoy had already left to escort another prisoner.

In the light of the above remarks, **the CPT recommends that the Estonian authorities take resolute steps to recruit additional custodial staff at Tallinn, Tartu and Viru Prisons**. Further, **measures must be taken to ensure that the number of custodial officers employed is sufficient at all times, including at night and on weekends**.

77. As for staff training, the CPT notes as a positive fact the existence of a comprehensive initial training programme for newly recruited prison staff, including practical on-site workshops for students of the Prison Service Academy. However, ongoing training and professional support for existing prison staff was not sufficiently developed.[97] **The Committee recommends that further efforts be made to develop ongoing (in-service) training and professional support for prison staff; in this context, reference is also made to the recommendation in paragraph 49 above.**

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[93] The 326 posts for prison officials (*vanglaametnikud*) at Tallinn Prison were filled by 223 FTE, and at Viru Prison there were 202 FTE of active staff, and 300 posts. Tartu Prison was better staffed, having 265 persons in active employment out of 331 posts in total; the Director explained this by the fact that the city of Tartu was an attractive place to live and work and, therefore, it was relatively easier to recruit qualified staff as compared to other prisons (thanks also to higher salaries). By contrast, a similar salary incentive at Viru Prison had reportedly been not as successful.

[94] At Tallinn Prison, 77 posts were vacant among the 240 custodial staff (32% vacancy rate), at Tartu Prison, 25 of the 181 posts were unfilled (14% vacancy rate), and at Viru Prison, 50 out of the 209 posts were filled (24% vacancy rate). 'Custodial staff' included guards (*II kl valvur*) and senior guards (*I kl valvur - vanemvalvur*) within the category of prison officials (*vanglaametnikud*). The figures on vacancies do not include long-term absences (e.g., parental leave, military service, unpaid leave).

[95] At Tallinn Prison, 18.5 posts were vacant out of the 40 theoretical posts; Viru Prison had nine vacancies out of 33 posts, whereas Tartu Prison was nearly fully staffed, having only two vacancies out of 30 posts.

[96] The situation was exacerbated by a generalised understaffing of healthcare personnel, see paragraph 65 above.

[97] For example, prison officers had received (on average) a mere 11 hours of in-service training (per staff member) in the course of the year 2022.

b. contact with the outside world

78. The legal provisions governing prisoners' contact with the outside world have remained in large part unchanged since the CPT's last visit.[98] Sentenced and remand prisoners were entitled to receive at least one *short-term* supervised visit per month of up to three hours, while sentenced prisoners were also entitled to receive one unsupervised *long-term* visit of 24 hours (with a possible extension of up to three days in "justified cases") at least once every six months.[99] Moreover, in addition to the right to correspondence, all prisoners were allowed to have access to the telephone, sentenced prisoners at least once a week and remand prisoners "upon request".[100]

Information gathered by the delegation during the visit suggests that, in the three prisons, inmates were usually allowed to have a visit of three hours per month and that, on occasion, prisoners could have more than one visit per month. Further, sentenced prisoners were usually offered two long-term visits per year, and all prisoners were usually allowed to use the phone at least once a week, often more frequently.

Regarding the current visiting entitlement, the CPT wishes to stress once again that it is totally insufficient. The Committee must reiterate that all prisoners (whether sentenced or on remand), irrespective of the regime, should benefit from a visiting entitlement of at least one hour every week. Further, juveniles should benefit from a visiting entitlement of more than one hour every week. **The Committee calls upon the Estonian authorities to amend the relevant legislative provisions accordingly.**

79. The CPT has repeatedly criticised the fact that short-term visits – including those for juvenile prisoners – took place, as a general rule, under closed conditions (i.e. with a glass partition). During the 2023 visit, the delegation was pleased to note that, owing to a recent amendment of the relevant regulations, the principle in force was now that short-term visits with family members could take place without a glass partition ("open visits").[101] That said, it remained the case that, in practice, closed visits were the rule and open visits the exception in the establishment visited, with the laudable exception of Tartu Prison.[102]

The Committee acknowledges that, in certain, cases, it may be justified, for security-related reasons, to prevent physical contact between prisoners and their visitors. However, open visits should be the rule and closed visits the exception, for all categories of prisoners. **The CPT calls upon the Estonian authorities to review the visiting arrangements in all prisons accordingly, based on a careful risk assessment.**

80. At Viru Prison, some of the sentenced prisoners interviewed by the delegation alleged that incoming correspondence addressed to them was read by staff (and that, occasionally, staff made derogatory comments on the content of these letters, including replies to prisoners' complaints or motions to external institutions).

The CPT acknowledges that there might well be cases in which prisoners' incoming correspondence should be checked to verify that no prohibited items are introduced into the prison, and it is a good practice that such checks are performed in the presence of the prisoner concerned. However, such security measures by staff should not involve reading on a regular basis – let alone commenting on the content of – sentenced prisoners' correspondence, unless specific restrictions are imposed on a particular prisoner in accordance with the law and based on an individualised risk assessment.[103]

The Committee recommends that the Estonian authorities carry out a review of the practice with respect to the inspection of incoming correspondence, in the light of the above remarks.

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[98] CPT/Inf (2019) 31, paragraph 64.

[99] Sections 23 to 29, and 94 to 95 of the Imprisonment Act; Rules 31 to 46 of the Internal Prison Rules. As for young prisoners, Section 84 (2) of the Imprisonment Act stipulates that the frequency and duration of visits "may be increased with a view to achieving the objectives of the execution of imprisonment".

[100] Sections 28, 29 and 96 of the Imprisonment Act; Rules 31 to 46 of the Internal Prison Rules.

[101] Rule 31(2^1)(5) of the Internal Prison Rules.

[102] In 2023, at Tallinn Prison 61 visits out of 723 were open (8%); at Tartu Prison, 135 out of 341 (40%); at Viru Prison, 33 out of 582 (6%).

[103] Section 29 of the Imprisonment Act; Rule 52(4) of the Internal Prison Rules.

c. disciplinary solitary confinement

81. In the course of the visit, the delegation paid particular attention to the situation of prisoners who were subjected to solitary confinement as a disciplinary punishment. Despite the specific recommendations made after the 2007, 2012 and 2017 visits to substantially reduce the maximum possible period of disciplinary solitary confinement,[104] the time-limits set out in the law have remained unchanged.[105] Solitary confinement may be imposed up to 45 days for adult sentenced prisoners and up to 30 days for adult remand prisoners; in the case of "young offenders" (i.e. prisoners aged below 21), the respective maximum periods are 20 and 15 days.

82. Turning to the actual application of disciplinary solitary confinement, the practice varied among the three prisons visited, with Viru Prison remaining the establishment giving grounds to the CPT's most serious concerns. Based on the examination of the relevant disciplinary records in the three establishments, the delegation noted that there had been 150 placements in disciplinary solitary confinement in the period from 1 January 2022 to 6 June 2023, in which the duration of the placement had exceeded 14 days,[106] i.e. the maximum permissible duration of disciplinary solitary confinement according to the CPT standards.[107]

83. At Viru Prison in particular, in the period from 1 January 2022 to 6 June 2023, there had been 45 placements in disciplinary solitary confinement lasting between 30 and 45 days. In the same period, five prisoners at Viru Prison had received the maximum sanction of 45 days of disciplinary solitary confinement on three or more consecutive occasions and eight prisoners had spent a total amount of over 150 days in disciplinary solitary confinement.[108]

84. In short, whereas the average duration of disciplinary solitary confinement, especially in 2023, appeared to have decreased as compared to the situation observed during the previous visit,[109] it was clear that the CPT's long-standing recommendation regarding the maximum duration of this sanction had not been implemented. Furthermore, the delegation gained the impression that resort to disciplinary solitary confinement was far from being exceptional, especially at Viru Prison. For example, out of a total of 1 619 disciplinary sanctions which had been imposed on prisoners at the latter establishment since the beginning of 2022, 984 (i.e. approximately 60%) had been in the form of the disciplinary solitary confinement. The percentage was lower in the two other prisons visited (e.g. under 40% at Tartu Prison).

85. At the outset of the visit, senior officials from the Ministry of Justice informed the delegation that amendments to the Imprisonment Act, reducing the maximum duration of disciplinary solitary confinement to 14 days for adult prisoners and to 3 days for juveniles, had been drafted at the Ministry and were to be sent to the Parliament for consideration in the nearest future.

Regarding the proposed reduction of the maximum legally permitted duration of disciplinary solitary confinement for adult prisoners, the Committee can only welcome this long overdue legal change. **The CPT calls upon the Estonian authorities to adopt the aforementioned amendment concerning adult prisoners without further delay. It wishes to be kept informed of the progress of the legislative process and the details of the adopted text.**

[104] CPT/Inf (2011) 15, paragraph 83; CPT/Inf (2014) 1, paragraph 95; CPT/Inf (2019) 31, paragraph 70.
[105] Sections 63 and 100 of the Imprisonment Act.
[106] In 2022, 111 cases at Viru Prison, 10 at Tartu Prison and 9 at Tallinn Prison; in the first five months of 2023, 12 cases at Viru Prison, none at Tartu Prison and 8 cases at Tallinn Prison.
[107] CPT/Inf (2011) 28, paragraph 56(b).
[108] Admittedly, in most of those cases there had been an interruption lasting between a few days and a week between the sanctions.
[109] See CPT/Inf (2019) 31, paragraph 67.

The Committee also reiterates its recommendation that steps be taken to ensure that no adult prisoner is held continuously in disciplinary isolation for longer than the maximum time-limit (that is, 14 days at most). If a prisoner has been sanctioned to disciplinary confinement in relation to two or more violations for a total period exceeding the maximum time-limit, there should be an interruption of several days in the disciplinary confinement once the aforementioned time-limit has been reached. Any violation(s) committed by a prisoner which it is felt call(s) for a more severe sanction should be dealt with through the criminal justice system.

The Committee must also stress that it is not in agreement with the part of the draft amendments to the Imprisonment Act concerning disciplinary solitary confinement for juvenile prisoners. Juveniles are particularly vulnerable to the detrimental effect that any form of solitary confinement may have on their physical and/or mental well-being, which is why – in the CPT's view[110] – the sanction of disciplinary solitary confinement should never be applied to them. Consequently**, the Committee recommends that this sanction be abolished in law (and pending that, no longer applied in practice) in respect of juvenile prisoners**.

86. From the consultation of disciplinary files and interviews with prisoners and staff, it transpired that, as had been the case during previous visits, disciplinary procedures were usually carried out in accordance with the relevant rules.[111]

However, while prisoners had a right to submit written observations before a decision was adopted, the regulations did not set out a requirement that they be heard in person by the decision-making authority and that they be entitled to receive legal assistance. **The CPT recommends that adequate steps be taken to fill these *lacunae*.**

Moreover, the delegation was concerned about the absence of any guidelines or directives established at the central level to ensure a consistent and predictable application of disciplinary sanctions. Similar to the placements in segregation on security grounds (see paragraph 90 below), wide discretion was granted to authorised prison staff, leading (as the delegation concluded based on the examination of several disciplinary proceedings in the prisons visited) to sanctions of unequal severity being imposed for comparable disciplinary violations.

The Committee invites the Estonian authorities to consider issuing (on the central level of the prison service) guidelines for authorised prison staff on how to apply disciplinary sanctions, with standard ranges of sanctions for certain types of disciplinary offences. Authorised prison staff should be provided with appropriate training in the application of these guidelines.

Further, **the CPT reiterates its recommendation that the relevant provisions be amended to ensure that only the prison Director or (in the Director's absence) another senior prison officer representing the Director be authorised to impose the sanction of disciplinary solitary confinement**.[112]

87. It is noteworthy that, unlike during the CPT's previous visits, the practice in the three establishments visited was that (in most cases) prisoners could serve the sanction of disciplinary solitary confinement in their own (standard) cells; this is indeed a positive development. Further, the delegation found the material conditions to be generally adequate in the disciplinary cells of the three prisons visited. The cells measured between 8 and 9 m^2 each and were equipped with a bed, a table, a stool and often a cupboard (all these pieces of furniture being fixed to the floor) as well as a call system. Further, there were unpartitioned toilets and washbasins. Access to natural light and artificial lighting were sufficient but ventilation was poor in all of the disciplinary cells, particularly so in cells Nos. 1166 and 1191 at Tartu Prison. **The Committee recommends that steps be taken to remedy this shortcoming**.

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[110] See also Rule 60 (6) (a) of the revised European Prison Rules; Rule 45 (2) of the revised United Nations Standard Minimum Rules on the Treatment of Prisoners (*Nelson Mandela Rules*), and Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (*Havana Rules*).

[111] Sections 64 and 101 of the Imprisonment Act; Rules 97 and 98 of the Internal Prison Rules.

[112] See CPT/Inf (2019) 31, paragraph 74.

88. As for the regime, prisoners placed in disciplinary solitary confinement were allowed to take their outdoor exercise for one hour each day. However, the exercise yards had the same oppressive design of those allocated for use by remand prisoners and, accordingly, **reference is made to the recommendation in paragraph 54 above, which applies equally here.**

Prisoners placed in disciplinary solitary confinement had access to a limited range of reading matter (some books and newspapers) and a few other distractions such as sudoku or crosswords. Further, some of them were allowed to listen to the radio. Whilst they had some (rather limited) access to a telephone, visits were prohibited, which was of particular concern given the frequently long duration of the measure (see paragraph 83 above). The Committee wishes to reiterate its view that restrictions on family contacts in the context of disciplinary procedures should be imposed only where the offence relates to such contact; further, such restrictions should never amount to a total prohibition of contact. **The CPT recommends that steps be taken, including by amending the relevant rules, to ensure that disciplinary punishment of prisoners does not include a total prohibition of family contacts,[113] and that any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contact and should never amount to a total prohibition of contact**.

89. The CPT welcomes the fact that healthcare staff were no longer asked to issue a "fit for punishment" certificate prior to placement in disciplinary solitary confinement. Further, healthcare professionals in the prisons visited were required to report to the prison management cases in which a prisoner's health was being put seriously at risk by being held in disciplinary isolation, and they could request that the measure be lifted.

However, several prisoners who were or have recently been in disciplinary solitary confinement complained of having had to wait for a long period before their request to see a member of the healthcare team was granted. This was particularly problematic given that some of the prisoners concerned reported having mental health issues (and a few of them declared having suicidal thoughts or a history of self-harm).

The Committee must stress once again that doctors and nurses working in prison should be very attentive to the situation of prisoners placed in disciplinary solitary confinement. Healthcare staff should immediately be informed of all such placements and should visit the prisoners without delay after placement and thereafter on a daily basis, and provide them with prompt medical assistance and treatment as required. **The CPT recommends that the Estonian authorities ensure that the aforementioned precepts are observed in all the prisons visited, especially in the context of the forthcoming transfer of responsibility for prison healthcare services to the Ministry of Health (see paragraph 64 above).[114]**

d. segregation in isolated locked cells

90. According to Section 69 of the Imprisonment Act, "additional security measures" may be imposed on prisoners who regularly violate the imprisonment rules, pose a threat to other persons or security in the prison, damage their health or are likely to attempt suicide or escape. Additional security measures range from prohibition to wear personal clothing or use personal effects to segregation in an isolated locked cell (*lukustatud kambrisse paigutamine*) and use of means of restraint. These additional security measures are imposed by the head of unit or a delegated officer[115] for an indeterminate period of time, that is, until "the [aforementioned] circumstances cease to exist".

Senior prison officials told the delegation that placement in segregation pursuant to Section 69 of the Imprisonment Act was subject to monthly review; however, this was merely a practice without any actual legal basis and without any clearly stated written criteria.[116] **The Committee recommends that this legal gap be filled.**

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[113] See also Rule 60 (4) of the European Prison Rules.

[114] See also the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (CPT/Inf (2011) 28, paragraphs 62 and 63).

[115] Rule 12 of the Internal Prison Rules.

[116] This lack of legal certainty and transparency of the review process was also pointed out by some of the

91. At the time of the visit, 19 prisoners were being segregated pursuant to Section 69 of the Imprisonment Act at Tallinn Prison, nine at Tartu Prison, and seven at Viru Prison. In 2023, segregation in isolated locked cells was enforced 164 times at Tallinn Prison, 188 times at Tartu Prison, and 108 times at Viru Prison. Segregation lasted on average between two and three weeks, but was particularly long in respect of some prisoners. For example, in 2022 and in the first five months of 2023, 17 inmates at Viru Prison had spent uninterrupted periods of segregation extending beyond 60 days, four of whom for over 200 days. In all the establishments visited, segregation under Section 69 of the Imprisonment Act had sometimes been applied in conjunction with disciplinary isolation against the same individual, leading to very long overall periods of solitary confinement and a very impoverished regime.[117]

92. In the absence of specific provisions in the Imprisonment Act, the procedure for placement of a prisoner in segregation in a locked cell was based on general provisions set out in the Administrative Procedure Act (including the right for the prisoners concerned to submit their observations before a decision is adopted and the right to challenge the decision before the court). The aforementioned procedure appeared to be duly followed in the establishments visited, with prisoners normally being given an opportunity to be heard, and consistently receiving a copy of the relevant decisions.

That said, the delegation found that the distinction between segregation under Section 69 of the Imprisonment Act and disciplinary solitary confinement was not always sufficiently clear in practice. As a consequence, it was difficult to understand under which precise circumstances the prisoner's behaviour could warrant the imposition of segregation rather than disciplinary solitary confinement.[118] To make matters even more complicated, prison staff explained that segregation pursuant to Section 69 of the Imprisonment Act was sometimes applied pending the conclusion of disciplinary proceedings.

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

93. Prisoners serving periods of segregation pursuant to Section 69 of the Imprisonment Act were placed in ordinary cells within their regular accommodation block, or in special cells. The prison staff mentioned a relatively recent change of policy indicating that prisoners should preferably serve their periods of segregation in their regular cells. This was a positive development, all the more so as conditions in some of the special cells seen in the prisons visited left much to be desired.[119]

94. Unlike in the case of prisoners placed in disciplinary solitary confinement, those segregated under Section 69 of the Imprisonment Act were normally allowed to buy food from the prison shop, retain their personal belongings (including a TV set and reading material) and keep their bedding on their beds also during daytime.

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segregated prisoners with whom the delegation spoke (see also paragraph 97 below).

[117] See also paragraphs 81 and following above.

[118] For example, violations of the duty to work, whether isolated or repeated, appeared to be addressed via disciplinary procedures; by contrast, illegal production of alcoholic beverages and reception of prohibited substances during family visits resulted in segregation under Section 69 of the Imprisonment Act, although the attendant decisions did not mention any prior history of violations on the part of the prisoners concerned.

[119] For example, cell No. 1192 at Tartu Prison was poorly lit and ventilated and gave no access to the call bell, while cells Nos. P214 and P 216 at Viru Prison were in need of refurbishment and were also poorly lit and ventilated.

95. The regime applied to segregated prisoners was very restrictive. In theory, confinement to a locked cell did not necessarily involve further restrictions.[120] The reality was different, as the delegation concluded based on both interviews with segregated inmates and analysis of the relevant documentation. Committal to an isolated locked cell regularly involved a prohibition to engage in out-of-cell activities and to communicate with other prisoners, as well as varying restrictions on contacts with the outside world. It follows that, apart from one hour of outdoor exercise, taken cell by cell in empty, oppressive cubicles, segregated prisoners remained locked up in their cells with very little to occupy themselves with. For prisoners (who, as a rule, were accommodated in single cells), the regime could be considered as amounting to solitary confinement, often for prolonged periods.

96. In this context, the delegation was extremely concerned about the almost total lack of meaningful human contact for prisoners segregated in isolated locked cells.[121]

Segregated inmates interviewed by the delegation consistently reported that human contact was limited to a one-hour long meeting with a social worker or a chaplain scheduled, at most, on a weekly basis. The delegation was told that those meetings would at times take place with the social worker or chaplain remaining outside the cell, only speaking through the hatch in the cell door. One of the interviewed prisoners, who had been spending long periods in segregation, had evident difficulties in articulating his speech and said that he "had been alone for so long that he had forgotten how to talk".

The delegation did not observe any attempts by staff to engage in a meaningful interaction with the segregated prisoners, nor did it come across any evidence of staff making efforts to re-integrate prisoners back into the mainstream population; on the contrary, staff appeared detached and tense, and, according to prisoners, unprepared to take time to interact with them.[122]

97. In short, the social and human contact offered to segregated prisoners was clearly insufficient in the establishments visited, both quantitatively and qualitatively. This was especially striking in respect of a relatively small group of segregated prisoners with behavioural and/or psychological problems (some of whom had a history of self-harm and/or suicide attempts). As was the case with prisoners placed in disciplinary solitary confinement, segregated prisoners had poor access to medical care, including mental healthcare, and were not under sufficient medical supervision (see paragraph 89 above).

The CPT believes that self-harm and suicide attempts should be addressed primarily through medical or psychological interventions. Assessing the risk of suicide and self-harm should be the responsibility of clinical psychologists or psychiatrists. Security concerns, such as segregation in isolated locked cells, should not be the basis for placing a prisoner under a restrictive regime in response to suicide risk.

Moreover, the Committee is of the view that the longer prisoners are placed in conditions akin to solitary confinement (as was the case with most of the prisoners segregated pursuant to Section 69 of the Imprisonment Act), the more steps should be taken to mitigate the negative effects of their segregation by maximising their contact with others and by offering them appropriate activities. The current impoverished regime and insufficient meaningful human contact is likely to lead to a deterioration in the physical health, mental faculties and social skills of the prisoners concerned. The adverse effects on mental health were exacerbated by the uncertainties associated with the indefinite length of segregation under Section 69 of the Imprisonment Act, which was frequently identified as a source of distress by interviewed prisoners.[123]

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[120] See Section 69 (2) of the Imprisonment Act.

[121] As well as those placed in disciplinary solitary confinement, see above paragraphs 81 and following.

[122] This could have been due, at least in part, to staff shortages (see paragraph 76 above).

[123] Several prisoners told the delegation that they had repeatedly asked the staff when the segregation measure would end, the standard reply reportedly being "when the situation is resolved".

98. In the light of the remarks set out in paragraphs 95 to 97 above, **the CPT recommends that steps be taken to ensure that all prisoners segregated pursuant to Section 69 of the Imprisonment Act:**

- **have an individual regime plan to assist them to return to a normal regime as soon as possible; the plan should be formulated and reviewed by a multi-disciplinary team and encompass a programme of purposeful activities;**
- **are offered meaningful human contact for at least two hours every day and preferably more, with staff and/or with one or more other prisoners;[124] those interactions should be conducted directly and not through the hatch in the cell door.**

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

e. reinforced security unit ("Supermax")

99. At Viru Prison, the delegation visited Estonia's only reinforced security unit (referred to colloquially by both the management and the staff as the "Supermax"), accommodating at the time of the visit 44 prisoners segregated from the general prison population.[125] The majority of them had been in the "Supermax" for periods ranging from five to eight years. The prison's management explained that prisoners were placed in that unit as they were considered to present a particularly high security risk, in most cases related to their involvement in organised crime.

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

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

101. Further, despite the Committee's recommendation made in the report on the 2017 visit,[126] the frequency of the review of the measure of placement in the "Supermax" had not been increased and reviews continued to be performed on a yearly basis. Based upon interviews with staff and prisoners, as well as the examination of the relevant documentation, the delegation gained the impression that the review was of a rather formal nature, based on the prisoner's past behaviour rather than his current conduct. Some prisoners told the delegation that they had never been involved in the annual review and most were persuaded that it would be impossible for them to leave the "Supermax" anyway. The Director of Viru Prison acknowledged that not a single prisoner had ever been transferred from the "Supermax" to ordinary accommodation as a result of the review process; he added that a broader reflection on the functioning of the review procedure was ongoing in the Prison Department. **The CPT would like to be informed about the outcome of this reflection which should, in the Committee's view, reflect the abovementioned precepts regarding the scope and frequency of the review process.**

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[124] In line with the requirements set out in Rule 53A (a) of the revised European Prison Rules. See also Rule 44 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

[125] 25 of the prisoners placed in the "Supermax" were Russian citizens, 12 were Estonian citizens and the remainder were citizens of other countries.

[126] CPT/Inf (2019) 31, paragraph 82.

102. The material conditions in the cells at the "Supermax" had remained basically unchanged since the CPT visit in 2012.[127] Almost all of the inmates, at the time of the visit, were being held one to a cell. Conditions were generally adequate except for the poor ventilation in some of the cells. **The Committee recommends that steps be taken to address this deficiency**.

103. As regards the regime, prisoners were allowed to leave their cells for a period of four hours per day, in addition to the one-hour of daily outdoor exercise taken in the aforementioned oppressive cubicles (see paragraph 54 above).

During their out-of-cell time, prisoners were able to associate and had access to a good-sized common area containing a table, chairs, exercise equipment, table-football and board games. The delegation noted as a positive fact that a small ceramic workshop had been set up, in which, reportedly, up to four prisoners could work for two to three hours every day. In addition, up to 20 prisoners were occasionally (no more than a few hours per week) involved in various other work activities, consisting of cleaning duties in the majority of the cases.[128] Yoga and music groups were organised twice per week, but there were only six to ten available places.

To sum up, while acknowledging the efforts made by the management of Viru Prison to provide activities to prisoners placed in the "Supermax", the fact remained that the range of these activities was rather limited. **The CPT recommends that further steps be taken to expand it, with a preference for activities that may assist prisoners to return to ordinary living units**.

f. other security-related issues

104. Many prisoners interviewed by the delegation stated that, when they had been placed in segregation pursuant to Section 69 of the Imprisonment Act (see paragraph 90 above) they had been handcuffed on a routine basis whenever they left their cell.

The CPT wishes to stress that, in its view, the application of handcuffs vis-à-vis segregated prisoners should be an exceptional measure taken only when strictly necessary, based on the individualised risk assessment, and never applied as a routine measure. Further, the grounds for its application should be reviewed on a regular basis.

The Committee recommends that the practice with respect to the application of handcuffs vis-à-vis prisoners segregated pursuant to Section 69 of the Imprisonment Act be modified in the light of the aforementioned precepts.

105. Despite previous recommendations by the CPT,[129] custodial staff continued to carry special means (telescopic truncheons, tear gas canisters and handcuffs) in a visible manner inside the prisoner accommodation areas of the three prisons visited.

The Committee must reiterate that, in its view, custodial staff should not carry such special means as a matter of routine inside the detention areas; further, if it is deemed necessary for staff to be issued with such means, they should be hidden from view.

The CPT reiterates its recommendation that the Estonian authorities review in the light of the above remarks their policy with respect to the carrying of truncheons, tear gas canisters and handcuffs by custodial staff inside the detention areas.

[127] CPT/Inf (2014) 1, paragraph 66.
[128] 14 prisoners were performing cleaning duties (one to two times a week), two worked as food caterers (three times a day), one as a gardener (every day) and one as a barber (once or twice a month); further, there were two inmates employed as handymen (whenever needed), one as a caretaker and one as a library assistant.
[129] See e.g. CPT/Inf (2019) 31, paragraph 83; CPT/Inf (2014) 1, paragraph 92.

g. complaints procedures and monitoring

106. Pursuant to Section 1[1] of the Imprisonment Act, prisoners are entitled to file internal complaints against administrative acts issued or measures taken by prison staff. Such internal complaints must be processed within a maximum of 30 days. If the complaint is rejected or if there is no response within that deadline, the prisoner may lodge an appeal before the Administrative Court.

The delegation gained the impression that prisoners were in general aware of the above-mentioned avenues of complaint and able to exercise them in practice (although it was not always clear whether they could do so in a confidential manner). Information on complaints procedures and more generally on prisoners' rights and house rules was readily available in a variety of languages. Complaints were accurately recorded in dedicated registers, from which it transpired, as borne out by the interviews with prisoners, that feedback was normally provided to complainants.

However, as had been the case in the past, the delegation met many prisoners who stated that they had little trust in the official complaints procedure, since replies often came from the same person against whose conduct the complaint was addressed or their direct supervisor, or because the issue raised in the complaint remained unresolved. Moreover, some Russian-speaking prisoners alleged that their complaints written in Russian had been returned by prison staff without a response.

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

107. Prisoners could also lodge complaints with external bodies, in particular to the relevant Prison Committee[130] and the Chancellor of Justice (NPM). Most prisoners were aware of the possibility to send a complaint to the Chancellor of Justice and confirmed that sealed envelopes were provided free of charge to this effect. The CPT welcomes this.

108. As regards monitoring, the three prisons were visited on a regular and frequent basis by staff of the Office of the Chancellor of Justice, in the capacity of the National Preventive Mechanism (NPM). In this context, **reference is made to the remarks and comments in paragraphs 10 and 11 above**.

[130] For further details, see CPT/Inf (2014) 1, paragraph 101.

C. Psychiatric establishments

1. Preliminary remarks

109. The delegation carried out follow-up visits to three psychiatric establishments: the Psychiatry Clinic of North Estonia Medical Centre (in Tallinn),[131] the Forensic Psychiatric Department of Viljandi Hospital[132] and Ahtme Hospital.[133] The general descriptions of the three establishments made in the reports on previous CPT visits remain, overall, valid.[134]

Further, the delegation carried out a first time visit to the Psychiatric Department of Kuressaare Hospital

110. At the time of the 2023 visit, the Psychiatric Clinic of the North Estonia Medical Centre (hereafter, Tallinn Psychiatric Hospital) had the official capacity of 220 (allocated between seven operational wards,[135] the remaining two being out of service[136]) and was accommodating 187 patients including 12 adolescents. 79 of the patients were officially considered as "civil" involuntary pursuant to Section 11 of the Mental Health Act.[137] Such patients were mostly accommodated on Wards 3, 4, 5 and 8. The average stay was approximately 20 days although some patients (especially on Ward 8) had stayed at the hospital for several months.

The delegation was informed that there were ready architectural plans to build a new psychiatric hospital in Tallinn but that approximately 40 million EUR were missing to be able to start the construction works. **The CPT would like to receive more detailed information on this subject.**

111. The Forensic Psychiatric Department of Viljandi Hospital (hereafter, Viljandi Forensic Department), the only psychiatric establishment in Estonia accommodating forensic in-patients, had the capacity of 80 and was, at the time of the 2023 visit, accommodating 67 adult patients[138] (25 on acute ward, 27 on sub-acute ward and 15 on rehabilitation ward located in a separate building), some 10% of them being female. The great majority of the patients had been diagnosed with various types of schizophrenia and their average stay was approximately 2 years although some patients had stayed at the establishments for much longer (the longest being 27 years, with a few who had been admitted more than 10 years ago).

[131] Previously visited in 2012, see paragraphs 103 to 148 of document CPT/Inf (2014) 1.
[132] Previously visited in 2007, see paragraphs 94 to 143 of document CPT/Inf (2011) 15.
[133] Previously visited in 2003, see paragraphs 85 to 125 of document CPT/Inf (2005) 6.
[134] See, respectively, paragraph 104 of the report on the 2012 visit (document CPT/Inf (2014 1), paragraph 94 of the report on the 2007 visit (document CPT/inf (2011) 15) and paragraph 86 of the report on the 2003 visit (document CPT/Inf (2005) 6).
[135] Ward 2 (mixed-gender, non-psychotic disorders), Ward 3 (acute/sub-acute for men), Ward 4 (acute/sub-acute for women), Ward 5 (admission and acute, mixed-gender), Ward 7 (adolescents, mixed-gender), Ward 8 (psycho-geriatric ward, mixed-gender) and Ward 9 (first psychotic episode, mixed-gender).
[136] Wards 1 and 6.
[137] The legal provisions governing both the "civil" involuntary hospitalisation and the compulsory psychiatric treatment of forensic patients have not changed since previous visits (see descriptions in paragraph 137 of the report on the 2012 visit – for the "civil" procedure – and in paragraphs 137 and 138 of the report on the 2007 visit, as regards the placement and treatment of forensic patients).
[138] The average age of patients was 42.

112. Ahtme Hospital had, at the time of the 2023 visit, the official capacity of 75 (on the in-patient wards including the acute and sub-acute wards) and was accommodating 51 adult male and female patients,[139] including eight formally "civil" involuntary ones. The average stay was said to be 18 days.

The Head doctor informed the delegation of the existence of plans to close the establishment and replace it with a newly-built psychiatric department of Ahtme General Hospital; however, the elaboration of these plans was reportedly not very advanced and it was uncertain whether the necessary financial resources would be made available in the near future. **The Committee would like to receive more detailed information from the Estonian authorities on these plans, including the envisaged timeframe for their implementation.**

113. The Psychiatric Department of Kuressaare Hospital, hereafter Kuressaare Psychiatric Department (part of the premises of Kuressaare General Hospital, located close to the town centre in a modernised building dating back to the 1950s) had the capacity of 12 and was accommodating five adult patients (four men and a woman) at the time of the visit. All were voluntary "civil" patients but the ward could occasionally accommodate involuntary patients,[140] albeit only for the initial 48-hour period (after which, if it was considered necessary to continue involuntary hospitalisation, patients would be transferred to Pärnu Psychiatric Hospital on the mainland).[141] The average stay was said to be 11 days.

114. At the outset of the visit, senior officials from the Ministry of Social Affairs informed the delegation of the progress of de-institutionalisation policy in the psychiatry sector. The numbers of in-patients in psychiatric establishments were decreasing steadily and it was reportedly no longer a problem (since approximately 3 years) to transfer psychiatric patients to social care homes.[142] Further, pursuant to the Mental Health Care Policy Green Paper and the Psychiatry Sector Development Plan until 2030 (the latter adopted by the Estonian Psychiatric Association), the number of places in community-based outpatient care structures was on the rise, with approximately 2.100 persons already benefitting from such services.

The CPT welcomes these efforts; **it would like to be informed of the further progress made by the Estonian authorities in the implementation of their de-institutionalisation policy.**

2. Ill-treatment

115. The delegation did not receive any recent and credible allegations of physical ill-treatment of patients by staff in the psychiatric establishments visited, which is to be welcome. Further, the atmosphere in the establishments visited was generally relaxed and many patients spoke positively of the staff.

That said, at Viljandi Forensic Department, a few patients alleged that orderlies would sometimes verbally abuse them and threaten them with informal punishments such as prohibition of outdoor exercise, confiscation of cigarettes or having to take a shower in cold water. **The Committee recommends that orderlies at Viljandi Forensic Department be reminded that such practices are unacceptable, illegal and will be punished accordingly.**

116. As for inter-patient violence, the information gathered by the delegation (from interviews with patients and staff and the consultation of relevant records) suggested that incidents did occur from time to time but that staff generally responded to them in a swift and professional manner.

That said, it would appear that not every incident of inter-patient violence was duly recorded at Ahtme Hospital, as was also acknowledged by the staff. **The CPT recommends that this *lacuna* be eliminated.**

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[139] There were 11 female patients at the time of the visit. Out of the 51 patients, 31 were accommodated on the acute and sub-acute wards (the delegation focussed its attention on those two wards).

[140] There had been two such involuntary stays so far in 2023.

[141] Kuressaare is the administrative capital of the island of Saaremaa.

[142] That said, at Tallinn Psychiatric Hospital staff told the delegation that it was not always easy to transfer chronic patients to social care homes, which sometimes resulted in hospitalisation being prolonged beyond its therapeutic justification (on occasion up to 3 months).

3. Living conditions

117. In all the psychiatric establishments visited living conditions were at the very least acceptable, with patients' rooms being spacious,[143] bright, airy, clean and overall in a good state of repair (which also applied to the furniture comprising, as a minimum, beds with bedding, bedside tables and cupboards). Further, patients had unrestricted access to the toilet, washing and shower facilities (all of them being decent and clean), and there were no problems with the provision of personal hygiene items and food. That said, apart from some of the wards at Tallinn Psychiatric Hospital[144] and at Kuressaare Psychiatric Department, patients' rooms were austere and impersonal, with few (if any) personal items in evidence and with no or hardly any lockable space available to patients.[145]

This was particularly striking on Wards 3 and 5 at Tallinn Psychiatric Hospital, the acute ward at Viljandi Forensic Department (where there was also a problem with the respect of patients' privacy due to the presence of large windows in doors to patients' rooms) and on both acute and sub-acute wards at Ahtme Hospital.

The Committee recommends that efforts be made in the aforementioned establishments to provide a more therapeutic material environment (allowing more decoration and personalisation), offer patients access to lockable space (to keep their personal items) and preserve their privacy.

118. The delegation also observed that most patients on the aforementioned wards (as well as at Kuressaare Psychiatric Department) were wearing hospital clothes (usually pyjamas) throughout the day.[146] In this context, the CPT must stress once again that individualization of clothing forms a part of the therapeutic process and that patients should be allowed and encouraged to wear personalized clothes. This is also a matter of preserving their human dignity.

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

119. In all the psychiatric hospitals visited patients were able to go outdoors every day, during between one and several hours.[147] Whilst welcoming this, the CPT must stress that, in its view, the standard should be that patients have unrestricted access to suitably equipped outdoor areas, unless their presence inside the ward is required by their involvement in therapeutic procedures and activities. **The Committee recommends that efforts be made in all the establishments visited (and, as applicable, in all other psychiatric establishments in Estonia) to ensure that this is the case.**

[143] Rooms accommodated one to four patients and measured (approximately) between 15 m² and 30 m².

[144] Especially Ward 7 (for adolescents), Ward 8 (for elderly patients) and Ward 9 (for patients having experienced their first psychotic episode).

[145] At Ahtme Hospital, following a NPM recommendation, (very) small lockers were installed at the entrance to each ward (and patients could store there the few personal items that would fit in these lockers).

[146] The explanation provided by staff (except on acute wards) being that wearing pyjamas was not compulsory provided patients' personal clothes were clean and in a decent condition. The delegation understood that pyjamas were obligatory on acute wards.

[147] All the psychiatric establishments but one possessed spacious and suitably equipped secure outdoor yards. The only exception was Kuressaare Psychiatric Department where patients could use a relatively large (some 50 m²) outdoor terrace fitted with seating and a table (and, with the permission of staff, some patients could go for walks on the hospital external grounds).

4. Treatment and staff

120. In the four psychiatric establishments visited, the treatment was essentially based on pharmacotherapy which appeared to be on the whole adequate (both as regards the types of medication used and the prescribed dosage) and well documented in the relevant documentation, including patients' medical files and nurses' journals.

The delegation had nevertheless some concerns regarding the recourse to PRN (*pro re nata*/ "as needed") prescriptions of sedative medication at Ahtme Hospital[148] as it was unclear what was the degree of autonomy of nurses in deciding whether to administer the medicines in the absence of a doctor. The Head doctor told the delegation that, as a rule, nurses would be authorised to administer, without seeking prior authorisation of a doctor, benzodiazepine in the form of tablets,[149] while a call to the duty doctor would be required prior to administering other medication by injection. **The CPT would like to receive more detailed information about the practice with respect to PRN prescriptions at Ahtme Hospital.** More generally, **the Committee refers to paragraph 28 of document CPT/Inf (2020) 41 concerning the standards that should be followed (at Ahtme Hospital and, as applicable, in other psychiatric hospitals in Estonia) whenever recourse is had to PRN prescriptions.[150]**

121. Electroconvulsive therapy (ECT) was resorted to relatively frequently at Tallinn Psychatric Hospital.[151] The delegation observed that ECT was administered to patients in its modified form (i.e. with both anaesthetics and muscle relaxants) and for the proper indications, in a specifically designated and well-equipped room. All applications of ECT were recorded in a central register as well as in the patients' files (as regards consent to ECT, see paragraph 133 below).

122. As regards other psycho-social therapeutic options (individual and group psychotherapy, occupational therapy, art and music therapy, etc.), the offer was limited, with the notable exception of Wards 7 and 9 of Tallinn Psychiatric Hospital. Some (certainly less than ten) patients from the sub-acute ward at Viljandi Forensic Department could occasionally go to the "Hobby House" (a separate building, mostly used by patients from other ("civil") departments of Viljandi Hospital) and participate in therapeutic activities (art, music, handicraft, etc.).[152]

By contrast, hardly any such activities were available on the acute wards in Tallinn, Viljandi and Ahtme.[153] Further, there were no individual treatment plans[154] and no evidence of multi-disciplinary team work.[155]

The Committee wishes to recall that, apart from appropriate medication, treatment for all psychiatric patients should involve a wide range of therapeutic, rehabilitative and recreational activities, the aim being to help patients recover (or at least control the symptoms of their disease) and prepare them for an independent life or return to their families. As for occupational therapy, it should form an integral part of the rehabilitation programme and aim at raising motivation, developing learning and relationship skills, supporting the acquisition of specific competences and improving self-image. It is also desirable to offer the patients education and suitable work.

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[148] See also paragraph 131 below.

[149] The administration of such medication would of course be recorded in the patient's file and in the nurses' logbook, and the doctor would be informed *ex post*, as soon as possible.

[150] "Persons deprived of their liberty in social care establishments. Factsheet", https://rm.coe.int/1680a0cc19, applicable *mutatis mutandis* to the use of PRN prescriptions in psychiatric establishments.

[151] The delegation was told that ECT was used approximately 300 times per year.

[152] Patients from the rehabilitation ward had unrestricted access to the "Hobby House".

[153] In particular, patients placed on acute wards had no (Viljandi) or almost no (Ahtme) access to individual or group psychotherapy (such interventions only being available to patients on sub-acute wards).

[154] The delegation was informed that preparations were underway to introduce such individual treatment plans at Viljandi Forensic Department.

[155] Whilst there was a practice of weekly meetings of doctors and nurses in some of the establishments, e.g. in Tallinn and Viljandi, discussions during these meetings (as acknowledged by staff) tended to be more of a general nature and individual patients' situation was not assessed systematically. Furthermore, other therapeutic staff was rarely if ever involved in these discussions.

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

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

123. Health-care staffing levels in the psychiatric establishments visited were generally adequate as regards *psychiatrists, nurses and orderlies*.

Tallinn Psychiatric Hospital (capacity 220, population 187) had some 40 doctors[156] (occupying 24 full-time positions), approximately 300 nurses, half of them trained in psychiatry (occupying the equivalent of 78 full-time positions) and some 170 orderlies (occupying 143 full-time positions). Each ward (usually between 25 and 30 beds) had three to five doctors, three to six nurses (and usually two after 3 p.m. and on weekends) and four to eight orderlies (two to four after 3 p.m. and on weekends). In addition, each ward was regularly attended by trainee doctors.

Viljandi Forensic Department (capacity 80, population 67) had six full-time psychiatrists (two of them on long-term leave),[157] 25 nurses (occupying 20 full-time positions) and 56 orderlies (occupying 53 full-time positions). On the day shift, there were two nurses and five – six orderlies per ward (25 – 30 patients); after 3 p.m. and on weekends, one nurse and three to four orderlies per ward.

Kuressaare Psychiatric Department (capacity 12) employed a full-time psychiatrist (as well as two visiting psychiatrists present together 6 – 7 days per month), seven nurses occupying 5.5 full-time positions (two of them trained in psychiatry) and seven full-time orderlies. During the day, two nurses and two orderlies were present; after 3 p.m. and on weekends, a nurse and an orderly.

Ahtme Hospital (capacity 75, population 51) employed six full-time psychiatrists (three of whom were specifically deployed to the acute and sub-acute wards) and approximately 80 nurses and orderlies. On the day shift, there were two nurses and two-three orderlies present on each of the two wards visited by the delegation (acute and sub-acute, between 35 and 40 beds per ward); after 3 p.m. and on weekends, each ward had a nurse and two orderlies present.

124. Regarding *somatic specialists*, given that all but one of the psychiatric establishments visited were administratively attached to bigger regional (general) hospitals, there was no problem arranging quick access to somatic doctors working in other departments of those hospitals. The only exception was Ahtme Hospital (which was legally an independent private institution) but the general hospital in the town of Ahtme was 3.5 km away and access to somatic consultations, examinations (including laboratory analyses) and treatments was said to be easy and rapid as well.

[156] Some of them specialised in child and adolescent psychiatry.

[157] In case of need, Viljandi Forensic Department could also count on the assistance from psychiatrists working in the "civil" psychiatric department of Viljandi Hospital.

125. By contrast with the above (and rather unsurprisingly given the limited options available, see paragraph 122 above), there were not enough other specialists in the establishments visited.

Tallinn Psychiatric Hospital, with some 40 *clinical psychologists* (not all of them employed full time),[158] was a positive exception. However, they mostly worked on Wards 7[159] and 9, or with outpatients. In the other establishments the situation was clearly less favourable, e.g. there were only two (on 1.25 positions) clinical psychologists at Viljandi Forensic Department (as well as a visiting clinical psychologist from the general ("civil") psychiatric department, who came if needed) and three at Ahtme Hospital (working mostly with outpatients). As for Kuressaare Psychiatric Department, although theoretically four clinical psychologists were working there, at the time of the delegation's visit one was undergoing one-year training at Viljandi Hospital, another was on long-term leave and two were trainees who studied away from Saaremaa, so in fact the Department could for most of the time only count on a retired psychologist who lived in Kuressaare and could visit occasionally.

The situation was even more problematic as regards *occupational therapists*; for example, there was only one at Viljandi Forensic Department (though assisted by seven "activity supervisors" who were less qualified as they could not assess a patient and initiate a therapeutic programme) and none at Ahtme Hospital and Kuressaare Psychiatric Department (where one of the nurses provided some occupational therapy). Regarding *social workers*, most establishments employed only one (except for Viljandi Psychiatric Department which had two).

The CPT recommends that efforts be made to redeploy the current complement of therapeutic staff (clinical psychologists, occupational therapists and other specialists such as art therapists and physiotherapists) more evenly across the different wards at Tallinn Psychiatric Hospital. Further, the Committee recommends that steps be taken to reinforce the relevant staff complement in the other psychiatric establishments visited. Considering the important function they perform in fostering patients' reintegration, it is imperative to recruit more social workers in all the establishments.

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

5. Means of restraint

127. As far as the delegation could ascertain, seclusion was as a rule not practised in the psychiatric establishments visited. This was, however, not entirely clear at Ahtme Hospital where the information provided by staff was somewhat contradictory[160] (and there was no trace of such measures having been resorted to in the relevant documentation). **The CPT would like to receive confirmation that seclusion is indeed never applied at Ahtme Hospital.**

Further, at Viljandi Forensic Department, two patients (who were considered to be particularly aggressive and difficult to control) were subjected to the so called "Regime 5"[161] which amounted to long-term segregation: they always stayed alone in their rooms and would only be allowed to go out – for outdoor exercise and to participate in therapeutic activities – when accompanied by at least two

[158] And some 20 other specialists (occupational therapists, art therapists, physiotherapists, etc.).

[159] Ten of the clinical psychologists were specialized in working with juvenile patients.

[160] Some staff were adamant that seclusion would never be applied while others referred to placement of patients in observation rooms (located next to offices of nurses) as "isolation".

[161] The delegation was informed that this was not specific to Viljandi Forensic Department – "Regime 5" could also be applied in other psychiatric establishments.

members of healthcare staff. Furthermore, the delegation understood that those two patients would rarely (if ever) associate with other patients.

The decision to place a patient on "Regime 5" was taken by the Head doctor (after having sought the opinion of two external forensic psychiatrists and an external clinical psychologist) and had to be reported to the Director of the hospital and to the Health Board.[162] However, there was no legal basis to this restrictive measure and no formal written rules,[163] which is obviously unacceptable.

The Committee recommends that this legal *lacuna* be eliminated as a matter of priority; if "Regime 5" is to continue being resorted to, it must have a clear legal basis and there must be precise regulations containing, as a minimum, the following elements:

- **the reasons for initiating and continuing the placement on "Regime 5" must be medically authorised and justified, involve multi-disciplinary clinical input, be risk-based and fully recorded in the patient's personal file as part of the individual care plan, which must also include, in addition to medication, the psychosocial therapies that will be offered to the patient;**

- **there must be a clearly described planned pathway, formulated in consultation with the patient, which defines how attempts will be rigorously made to re-integrate the patient back into full association with others in a less restrictive environment, as soon as possible;**

- **the patient must have regular, meaningful, daily, face-to-face human contact, opportunities to participate in meaningful activities (including recreational, with access to reading material and radio or TV) and possibilities to maintain contact with the outside world via visits or telephone;**

- **staff must monitor and record the patient's state on a daily basis and continuation of the placement on "Regime 5" must be reviewed and justified by a multi-disciplinary team and recorded on at least a weekly basis;**

- **should the placement on "Regime 5" continue beyond a few months, there must be a formal independent, external clinical review of the patient's case to consider possible alternative approaches;**

- **the patient concerned must have the possibility to appeal against the imposition/prolongation of the measure to an independent authority;**

- **a separate register must be established to record all instances of placement on "'Regime 5". The entries in the register should include the time at which the measure began and ended; the reasons for resorting to the measure; daily entries by the staff on the clinical review of the patient's state, time out of the room, activities offered and taken; weekly entries on the review by a multi-disciplinary team. Additionally, every psychiatric establishment concerned should have a comprehensive, carefully developed written policy on the use of "Regime 5".**

[162] Governmental agency under the responsibility of the Ministry of Social Affairs, dealing *inter alia* with supervision of quality of care in healthcare institutions.
[163] As well as no time-limit or periodic review mechanism.

128. As regards mechanical restraint (fixation),[164] it was applied in all the psychiatric establishments visited,[165] exclusively upon a doctor's order (except in case of emergency, usually after 3 p.m. and on weekends, when the initial decision might be taken by a nurse who would immediately report to and seek approval from the duty doctor), for relatively short periods (usually up to a few hours) and in adequate premises (rooms which were sufficiently spacious (measuring no less than 8 m²), well-lit and ventilated (except at Ahtme Hospital), clean and equipped with a bed (with bedding) attached to the floor and with adjoining dedicated toilet facilities).

At Tallinn Psychiatric Hospital, Kuressaare Psychiatric Department and Viljandi Forensic Department, the main issue of concern was the lack of direct ongoing supervision by a nurse whenever a patient was subjected to mechanical restraint (fixation).[166] Admittedly, nurses (or orderlies) were as a rule present in the adjoining room and observed the patient through a window or via CCTV; however, in the CPT's view, this cannot replace direct supervision by a nurse staying with the patient in the same room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. **The Committee recommends that the relevant rules be amended accordingly with respect to all psychiatric establishments in Estonia.**

129. Other issues of concern noted by the delegation were the use of fixation vis-à-vis adolescent (underage) patients (in Tallinn) and, in all the establishments except Viljandi, the fact that legally voluntary patients were sometimes subjected to fixation without (it would seem) seeking their prior consent and (in case the patient refused) without their legal status being reviewed.

Regarding adolescent patients, the CPT considers that they should in principle never be subjected to means of restraint. The risks and potential consequences of applying such means are indeed more serious taking into account the young persons' vulnerability. In extreme cases where it is deemed necessary to intervene physically to avoid harm to self or others, the preferable intervention is the use of manual restraint, that is, staff holding the adolescent patient until he/she calms down.

As for the application of means of restraint to a voluntary patients, the Committee's view is that, whenever such application is deemed necessary and the patient disagrees, the legal status of the patient should be reviewed.

The CPT recommends that the relevant rules and practices at Tallinn Psychiatric Hospital, Kuressaare Psychiatric Department and Ahtme Hospital be modified in the light of the above remarks.

130. The lack of ongoing direct supervision of mechanically restrained patients was also an issue at Ahtme Hospital, where – moreover – the delegation noted several other problematic aspects, namely the frequent[167] and prolonged (on occasion more than 24 hours[168]) recourse to fixation, and relying on police officers and private security guards to help restrain patients.[169] Furthermore, unlike

[164] With three-, four- or five-points magnetic leather beds attached to the bed.

[165] For example, at Talinn Psychiatric Hospital fixation had been applied 332 times in 2021, 264 times in 2022 and 86 times in the period between 1 January and 1 June 2023. At Kuressaare Psychiatric Department, fixation had been used twice in 2020 and 2021, three times in 2022 and twice in the period between 1 January and 1 June 2023.

[166] The delegation was informed that the rule was that the doctor had to check on the patient at least every 4 hours and the nurse at least every 30 minutes.

[167] There had been 137 instances of fixation in 2022 and 29 instances in the period between 1 January and 1 June 2023. The Head doctor explained this frequent recourse to fixation by the fact that his establishment admitted many agitated patients with alcohol delirium and it was necessary to restrain them upon arrival so as to be able to administer intravenous fluids.

[168] Fixation had lasted over 24 hours on 18 occasions in 2022 and on 6 occasions in the period between 1 January and 1 June 2023. It is noteworthy that any fixation lasting more than 24 hours had to be reported to the Health Board (this being a nationwide rule).

[169] Police had been called to assist in fixating patients on 40 occasions in 2022 (and 11 times in the period from 1 January to 1 June 2023) and security guards on 41 occasions in 2022 and 12 occasions between 1 January and 1 June 2023. On a few occasions, both the police and the security guards had been involved in immobilizing a patient.

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

The CPT recommends that steps be taken to remedy these deficiencies at Ahtme Hospital. In this context, **the Committee wishes in particular to reiterate its view that fixation should only be applied when absolutely necessary and for the shortest period possible (minutes rather than hours);** further, **it should be performed by duly trained health care staff and not by police officers or security guards**.

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

131. In all the psychiatric establishments visited recourse was occasionally had to chemical restraint (i.e. forced injection of medication aiming at rapidly calming down an agitated patient). The delegation was pleased to note that the use of chemical restraint was subjected to the same safeguards as other forms of restraint, including the obligation to record its use.

That said, **reference is made to the comments and recommendations in paragraph 120 above regarding the use of PRN prescriptions at Ahtme Hospital.**

6. Safeguards

132. The delegation observed that the relevant legal provisions (which, as already mentioned in paragraph 110 above, have remained unchanged),[170] were duly applied and patients had, on the whole, access to pertinent information,[171] to legal assistance (including *ex officio*) and to avenues of complaint.[172] Whenever hospitalisation (both "civil" involuntary and forensic) was prolonged by court order, court hearings took place[173] which were attended by the patients (or at least patients were invited to attend), their lawyers and (if required) interpreters, and the patients were enabled to speak freely and express their view on their condition and their situation. Patients could receive visitors[174] and make telephone calls,[175] and were enabled to send complaints to outside bodies (such as the court, the Chancellor of Justice or the Health Board).[176]

[170] Though there have been some changes in practices resulting from judgments of the Supreme Court, see e.g. paragraph 133 below.

[171] In the form of written information posted on the walls of communal areas (as a rule, in Estonian and Russian, sometimes also in English) and the establishments' house rules (explained orally by healthcare staff upon arrival and made available subsequently in written form upon request) as well as – at least in Tallinn and Ahtme – in the form of brochures available to patients, their families and guardians.

[172] Both internal and external (with complaints boxes placed on the wards).

[173] These were actual physical hearings, on the hospital premises, in Tallinn, Kuressaare and Ahtme, whilst in the case of forensic patients in Viljandi the hearings tended to be mostly online (with the patient and the lawyer attending physically, in the establishment, and the court and prosecutor attending remotely).

[174] Without restrictions (except, at Ahtme Hospital, for the obligation for visitors to present a negative Covid test or a vaccination certificate if the meeting room was to be used) and in adequate premises (except for Tallinn Psychiatric Hospital where visits took place in corridors, in the outdoor yards, in the activity/leisure rooms or in patients' rooms). It is noteworthy that patients at Viljandi Forensic Department also had access to video meetings using VoIP technology (once per week for 30 minutes maximum); this is indeed welcome.

[175] All patients (except on acute wards) could keep their mobile phones (those on acute wards had their mobiles stored but received them upon request) and those who had no mobiles could ask staff to use an office phone (in justified cases) or could receive a call on a fixed line of the establishment (e.g. once a week in Viljandi). On some wards in Tallinn (especially Ward 9) patients also had access to the Internet (and could use their own tablets or laptops).

[176] And patients (as well as their relatives and lawyers) did indeed make use of these complaints' procedures, as could be seen in the relevant documentation in the establishments visited.

That said, at Viljandi Forensic Department, the delegation was told that a letter addressed to an outside authority (other than the Chancellor of Justice)[177] would not be sent by the establishment if the patient did not pay for the postal stamp. The CPT has serious misgivings about what appears to be an excessively formalistic approach which could *de facto* restrict patients' access to outside complaints mechanisms; **the Committee recommends that steps be taken to remedy this state of affairs**.

133. More fundamentally, the Committee wishes to point out two persistent legal *lacunae*: first, establishments were as a rule not informed whether newly-admitted "civil" patients had a legal guardian,[178] which sometimes resulted in legally incapacitated patients being asked to sign the consent form[179] without the involvement (and, indeed, the knowledge) of their guardian.

In this context, the delegation noted that the aforementioned consent forms for "civil" patients continued to be drafted in a manner suggesting that consent to hospitalization equalled consent to treatment.[180]

Secondly, in respect of forensic patients, whilst the six-monthly reviews by the expert psychiatric commissions were duly performed[181] and patients (as well as their lawyers and guardians) were allowed to themselves request the review of the placement measure,[182] the legislation in force continued to fail to provide for an automatic periodic court review of the compulsory treatment measure.[183]

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

134. As regards monitoring, all the psychiatric establishments were visited both on a regular and *ad hoc* (unannounced) basis by staff of the Inspection Visits Department (NPM) of the Office of the Chancellor of Justice[184] and reports on these visits were published on the Chancellor's official website,[185] some of them also in English.

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[177] For whom it was expressly stated in the law that correspondence was free of charge.

[178] Unlike in the case of forensic patients, where such information was provided systematically. In some cases doctors were told by the "civil" patients themselves, or the guardian would accompany the patient (rarely) or contact the hospital shortly after admission. Further, the delegation saw in the files of some patients (as a rule, those brought back from social care homes because of the deterioration of their mental health condition) letters sent by the municipal authorities (in their capacity of guardianship authority) requesting the establishment to continue hospitalisation.

[179] Including the separate consent for the use of the ECT (see paragraph 121 above and footnote 180 below).

[180] The only treatment the recourse to which required specific and separate written consent of the patient was ECT. Such consent was also sought from patients who had a legal guardian (in which case the guardian would be informed). An interesting fact worth mentioning here was that, following a 2014 judgment by the Supreme Court, in their decisions authorising the prolongation of involuntary "civil" hospitalisation beyond the initial 48 hours, courts had developed the practice of specifying which types of treatments were allowed vis-à-vis the patient concerned (e.g. administration of anti-psychotics, tranquilizers and mood stabilizers), so that in reality the authorisation was never general and unlimited. But voluntary patients were still presumed to grant such unlimited consent whenever they agreed to their hospitalisation.

[181] At Viljandi Forensic Department, the commission was composed of two forensic psychiatrists independent of the hospital (one from Tallinn, another from Tartu) and patients were as a rule invited to the commission's meetings and enabled to present their point of view. The commission then made its recommendation (to keep the measure unchanged or to replace it with compulsory outpatient treatment or – more rarely – release the patient) based on the conversation with the patient and on the examination of the written recommendation by the treating doctor and other specialists involved in the treatment of the patient.

[182] Which, as already mentioned in paragraph 132 above, was not foreseen in the law but had been introduced in practice following a 2017 judgment by the Supreme Court.

[183] Court review only took place if the psychiatric commission recommended a change or termination of the measure, or if the patient (or his/her lawyer or guardian) requested such review.

[184] See paragraphs 5 and 10 above.

[185] https://www.oiguskantsler.ee.

D. Military detention

135. The legal provisions governing the detention of military servicemen on disciplinary grounds have not changed since the previous CPT visit to Estonia. First, the commanding officer (or duty officer) may place a serviceman in suitable secure premises for up to 48 hours, if this is deemed necessary, especially because of the threat posed by the serviceman concerned to himself, other persons or property. In practice, this provision is essentially used to hold servicemen who are agitated and/or aggressive due to alcohol intoxication.

Second, for more serious disciplinary infringements, following an investigation carried out by the military authorities, the Commander of the Battalion can issue a decree ordering detention for up to 14 days. The accused serviceman has the right to make his own submissions and the legality of the decree has to be reviewed by an administrative court before it can be implemented. During this procedure the serviceman can benefit from the assistance of a lawyer and, once the court decision has been made, he can appeal it to the Supreme Administrative Court within 30 days.

The delegation was informed at the outset of the visit that the aforementioned disciplinary sanction of disciplinary detention of up to 14 days (which was rare in practice[186]) was no longer served on the premises of military units but that servicemen would be transferred either to a police detention house[187] or to a prison (e.g. in Tartu), depending on the geographical location of the unit concerned.

136. The delegation saw the holding cell at the Headquarters of Kuperjanov Battalion in Võru (theoretically meant for the first of the two aforementioned types of disciplinary placements, that is up to 48 hours[188]) and reached the conclusion that the cell in question should never be used for periods of detention exceeding a few hours (and, in addition, should never be used for overnight detention), and this only provided it is equipped with some means of rest (e.g. a mattress or a bench). Indeed, although clean, well ventilated and benefitting from adequate artificial lighting, the windowless cell was completely bare and too small (just above 3 m²) for holding someone in excess of a few hours.

In their letter dated 12 July 2023, the Estonian authorities informed the CPT that the aforementioned cell would only be used very exceptionally,[189] for periods not exceeding a few hours, and that whenever a serviceman were to be placed there the cell would be fitted with a mattress or a bench. The Committee welcomes this quick and positive response to its delegation's observations.

137. As concerns the second type of placement, the delegation was concerned to note that military servicemen serving their disciplinary punishment at Tallinn (Police) Detention House were not offered genuine outdoor exercise whenever their detention exceeded 24 hours (unlike other categories of detained persons).[190]

In the aforementioned letter of 12 July 2023, the Estonian authorities stated that military servicemen held at Tallinn Detention House were entitled to daily outdoor exercise (as this right was foreseen in the military disciplinary legislation) and informed the CPT that the Ministry of the Interior had been requested to investigate the situation.

The Committee requests to be informed of the outcome of this inquiry and, in particular, to receive confirmation that military servicemen held at Tallinn Detention House (and, as applicable, in all other detention houses under the responsibility of the Ministry of the Interior) have indeed access to genuine daily outdoor exercise.

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[186] There had been 11 such placements in 2018, 21 in 2019, 14 in 2020, 4 in 2021 and 3 in 2022.

[187] See paragraph 21 above.

[188] Although the delegation was assured that whenever a placement longer than a few hours was required, the serviceman concerned would be transferred to the (sobering-up) cell at the local police detention facility.

[189] The last time the cell had been used was in February 2021.

[190] As regards other aspects of conditions of detention at Tallinn Detention House, see paragraphs 22 to 24 above.

APPENDIX I
LIST OF THE ESTABLISHMENTS VISITED BY THE CPT'S DELEGATION

Establishments under the authority of the Ministry of the Interior

- Tallinn Detention House
- Tallinn East (Ida-Harju) Police Station
- Tallinn Sobering-up Centre
- Tallinn Immigration Detention Centre ("Detention Centre of the Information Bureau of the Northern Prefecture of the Police and Border Guard Board")

- Kuressaare Detention House
- Narva Police Station
- Tartu Police Station
- Viljandi Police Station
- Võru Police Station
- Luhamaa Border Post
- Narva Border Post

Establishments under the authority of the Ministry of Justice

- Tallinn Prison
- Tartu Prison
- Viru Prison

Establishments under the authority of the Ministry of Social Affairs

- Ahtme Psychiatric Hospital
- Forensic Psychiatric Department of Viljandi Hospital
- Psychiatric Department of Kuressaare Hospital
- Psychiatric Clinic of Northern Estonian Medical Centre, Tallinn

Establishments under the authority of the Ministry of Defence

- Kuperjanov Infantry Battalion, Taara Army Base, Võru.

APPENDIX II
LIST OF THE NATIONAL AUTHORITIES AND OTHER BODIES
MET BY THE CPT'S DELEGATION

A. National authorities

Ministry of Justice

Kalle Laanet	Minister of Justice
Tõnis Saar	Secretary General of the Ministry of Justice
Rait Kuuse	Deputy Secretary General, Prisons Department
Taavi Siru	Director of Sentencing Enforcement Division, Prisons Department
Merike Sirendi	Director of Rehabilitation Division, Prisons Department
Diana Kõmmus	Director of the Internal Control Division, Prisons Department
Keili Kondike	Adviser, Prisons Department, CPT's liaison officer
Kadri Margus	Adviser, Prisons Department

Ministry of Health

Riina Sikkut	Minister of Health
Heidi Alasepp	Deputy Secretary General of Health Affairs

Ministry of the Interior

Janek Mägi	Head of Department, Public Order and Criminal Policy Department
Aivar Krupp	Service Head, Offence Proceedings Group, Prevention and Offence Proceedings Bureau, Development Department, Police and Border Guard Board
Riita Proosa	Adviser, Public Order and Criminal Policy Department

Ministry of Defence

Karmo Nuut	Head of the Military Police Investigation Department
Eduard Kikas	Inspector General of the Defence Forces
Steven Raidma	Adviser, Legal Department
Teele Helemäe	Legal Department
Harry Lahtein	Joint Headquarters of the Estonian Defence Forces

Ministry of Social Affairs

Anniki Lai	Head of Department, Department of Mental Health
Ingrid Ots-Vaik	Project Manager, Department of Mental Health
Raine Pilli	Psychiatry Expert
Lagle Kalberg	Head of Unit, Special Care and Rehabilitation Unit, Social Insurance Board
Enelis Linnas	Team Leader, Closed Childcare Service, Social Insurance Board
Liis Paloots	Head of Service, Migration Team, Social Insurance Board

Ministry of Education and Research

Liina Põld	Deputy Secretary General for General Education and Youth Policy
Jürgen Rakaselg	Head of Inclusive Education, Area of Inclusive Education
Piret Liba	Adviser, Area of Inclusive Education

B. Office of the Chancellor of Justice

Olari Koppel	Deputy Chancellor of Justice, Director
Kertti Pilvik	Head of International Relations and Organisational Development; Acting Head of NHRI activities
Indrek-Ivar Määrits	Head of the Inspection Visits Department
Ksenia Žurakovskaja-Aru	Senior Adviser, Inspection Visits Department

C. International and non-governmental organisations

United Nations High Commissioner for Refugees (UNHCR)

Estonian Human Rights Centre (EHRC)