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### **Inspection visit to Tartu Prison and the psychiatric department of prisons**

One of the tasks of the Chancellor of Justice is to regularly check the activities and conditions at places of detention (§ 1(7) and § 27 of the [Chancellor of Justice Act](#); Article 3 of the [Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#)). With that in mind, the Chancellor carries out inspection visits at a time agreed with an institution in advance as well as without prior notice.

The Chancellor's advisers inspected Tartu Prison and the psychiatric department of prisons on 4–6 May 2023, also giving the prison an advance notice of the inspection. I thank the prison for its readiness to cooperate.

The inspection focused on the situation of people in solitary confinement, older convicted and remand prisoners and patients in the psychiatric department of prisons. The Chancellor's advisers spoke with convicted and remand prisoners in solitary confinement, communicated with prison officers and staff and carried out a tour of the prison grounds and rooms. A selection of documents was also examined. During the inspection visit, the Chancellor's advisers were accompanied by two healthcare experts. The Chancellor last inspected Tartu Prison and the psychiatric department of prisons [in 2020](#).

Several of the Chancellor's earlier recommendations have been taken into account in the [Draft Act](#) (prepared in 2023) on amending the Imprisonment Act. The amendments concern, among other things, the possible duration of the disciplinary confinement punishment, allowing visits while serving the disciplinary confinement punishment and while in the reception unit, as well as creating possibilities for contact via a video link, and the like. This is an extremely welcome development.

Tartu Prison has also taken into account several of the Chancellor's earlier recommendations. Children coming to meet a parent are no longer forced to fully undress for a search. Visiting and waiting rooms have been made more child-friendly. A possibility to take pictures together has been created for parents in prison and their children. Capturing the time spent together supports prisoners' return to social life and is also important for their children.

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Prisoners no longer have to stay in a disciplinary cell for several consecutive months as may have happened before. Remand prisoners and patients in the psychiatric department of prisons can call their next of kin more often than before and have longer conversations with them than required by law. The prison also tries to offer out-of-cell activities (e.g. participation in a hobby group) to remand prisoners. Newspapers are more accessible to convicted and remand prisoners than before.

The prison no longer uses means of restraint not laid down by the Imprisonment Act. The condition of cell No 1002 has been improved: the dense metal mesh has been replaced by impact-resistant glass, and a new location has been found for the cell terminal so that it can be easily used by inmates.

Attempts have been made to improve access to medical care by changing the working arrangements of family nurses in 2022, so that family nurses now visit prison units every day. This is a commendable solution as it helps prisoners to communicate directly (and not through a guard or an inspector-contact person) with a healthcare professional and have their concerns resolved more quickly.

Nevertheless, there are still shortcomings in the work of Tartu Prison that do not support people's return to society and that create a favourable situation for their potential ill-treatment. The Chancellor of Justice as the national preventive mechanism must draw attention to these shortcomings.

## **1. Repeated recommendations**

**Many of the problems seen during the inspection visit to Tartu Prison were also pointed out by the Chancellor in the summary of the inspection visit carried out [in 2020](#). The relevant recommendations have been sent to the prison and the Ministry of Justice.**

**Without repeating the reasoning behind the recommendations, I would ask that continued close attention be paid and measures taken to address the following shortcomings.**

So far the provisions of the Imprisonment Act governing the detention of remand prisoners have not been amended even though the Chancellor drew attention to this need as early as [2014](#) and repeatedly after that. Locking all remand prisoners, without exception, in their cells (except the opportunity for one hour of exercise in the open air) does not enable consideration of the procedural interests relevant at a specific moment in time and the fact that the need to prevent compromising criminal proceedings might not be the only reason for holding a person in custody. The remand prisoners' opportunities for movement and contact are considerably more limited and their detention conditions often worse than those of the majority of convicted prisoners. At the time of the inspection, there were several remand prisoners in Tartu Prison who had been in the conditions of solitary confinement for two or three years.

It turned out that, as a rule, inmates stay in the reception unit for approximately a month, but in several cases a person had to stay in reception conditions for several months. Inmates in the reception unit should be transferred to the regular unit as soon as possible after an initial risk assessment and a decision on placement – preferably within a couple of weeks.

The use of bedding in a disciplinary cell has not changed and the choice of reading material there is still very limited.

Documents on the use of the so-called calming-down cell No 1192 are no longer filled out in as much detail as [in 2020](#), and the conditions in the cell have become even worse. The furnishings in the cell (e.g. metal bed with sharp edges, chair, table) are not conducive to calming down and are not safe for a person. As from 13 December 2022, plexiglass was installed on the intermediate bars in the cell, as a result of which a prisoner can no longer use the cell terminal and call for assistance if necessary. According to information available to the Chancellor, nine inmates have stayed in the cell since plexiglass was installed. People stayed in the cell for several hours without being able to notify someone of their needs (e.g. in the event of a health problem) through the cell terminal. No people (especially a restless person) may be placed in such a cell.

A persistent problem is that assessment of the need for committing a person to an isolated locked cell is not always clear. The prison has not fully analysed how to help prisoners in solitary confinement to return to the ordinary regime. Several prisoners have been in solitary confinement since 2019. Over time, they have given up going outdoors (some of them have not been outdoors for a couple of years), they have become unused to communication and it is difficult for them to express their thoughts. The boundaries of the cell have created a comfort zone which they no longer wish to leave.

A large proportion of prisoners in an isolated locked cell have mental disorders. Prison healthcare professionals do not monitor the health status of people in solitary confinement on a daily basis, although family nurses go to the units' accommodation sections every day. Nor was it confirmed that the prison provides opportunities for prisoners in an isolated locked cell for meaningful daily communication.

The prison has failed to create suitable conditions for people with mental disorders or otherwise vulnerable, self-harming or suicidal people. Inmates in this condition continue to be segregated in a locked cell, which carries the risk that a person's mental health problems deteriorate even further.

The exercise boxes in the E-building, which are used by convicted and remand prisoners in closed units, are empty gloomy concrete shells with a grated roof so that the sky can only be seen to a limited extent. These exercise boxes were in the same condition during the Chancellor's previous inspection visit. Nevertheless, the exercise boxes checked had a bench and a call button. People who spoke to the Chancellor's advisers said that because of such a condition of the exercise boxes they go outdoors rarely or not at all. Convicted and remand prisoners in closed units should be allowed at least occasionally to walk in a courtyard that offers a view to the horizon and lets them experience the benefits of being in the open air (e.g. landscape elements).

Newspapers are more accessible to inmates than before, but since the prison library was restructured in early 2020, the selection of books has become much smaller. Convicted and remand prisoners complained about this [in 2020](#) as well as during this year's inspection. In addition to books on the shelves in their accommodation unit, prisoners should also be able to borrow books not presently available on the shelves in their unit. For this, the prison should restore the previously used general list of books or create a new list and make it possible again to borrow books. Unlike other activities (e.g. social programmes, hobby groups) in which not everyone wishing can participate, and which have also been found to be unnecessary for some prisoners, reading offers an opportunity for everyone to spend time and reflect about oneself and the surrounding world through books.

In most of the cases inspected, the use of direct coercion as well as the situation preceding and following it had been described in detail. The use of means of restraint must also be always

documented. For example, in report No 2-22/1-1/20 drawn up on 29 December 2022, it was noted that only physical force in respect of a person was used, but the entry in the health examination records revealed that handcuffs had also been used on the person in that situation (see medical case No A24364).

After the use of direct coercion and means of restraint, a person's health status must always be checked. There may be situations where a person's health also needs to be checked before the removal of handcuffs, but in any case this must be done after the removal of handcuffs. Based on the cases inspected, a suspicion arose that this is not always done (e.g. medical case No A23582 of 15 December 2022, medical case No A2846 of 20 February 2023).

Regrettably, the situation in the psychiatric department of prisons has remained unchanged for years. Several of the recommendations made earlier by the Chancellor of Justice have not been taken into account.

## 2. Elderly people

According to studies, the average age of prisoners has increased and prisons have increasingly more older people. This is so in Estonia as well as other countries.<sup>1</sup> People who end up in prison are often physiologically older than their actual age and can be presumed on the basis of their health condition.<sup>2</sup> It has been found that an imprisoned person is physically ten years older than a person of the same age who has not served a prison sentence.<sup>3</sup>

While, as a rule, a person at the age of 65 is considered an older person, in the prison context there is reason to pay special attention to convicted and remand prisoners already at the age of 55.<sup>4</sup> In this respect, it should be emphasised that older convicted and remand prisoners are not a homogeneous group. They include people of different backgrounds and interests as well as different physical condition and mental abilities.<sup>5</sup> Nevertheless, it is precisely among the elderly that there may be more of those who, for a number of reasons, find it more difficult (compared to other inmates) to cope with imprisonment.

At the time of the inspection visit, there were nearly eighty people aged 55 and over in Tartu Prison. The oldest of them was 81 years old.

The prison does not have a separate unit for older inmates, they are placed in ordinary units. On the one hand, while living together with people of different ages in prison, the elderly are offered

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<sup>1</sup> See e.g. the [2022 overview](#) by the prison service; C. McParland, B. M. Johnston, [Palliative and end of life care in prisons: a mixed-methods rapid review of the literature from 2014-2018](#), *BMJ Open*, 2019; M. Richter *et al.* [End of life in prison: challenges for prisons, staff and prisoners](#). – P. Ugwudike *et al.* (eds), *Routledge companion to rehabilitative work in criminal justice*, 2019, pp 812–821; Hospice UK, [Dying behind bars – How can we better support people in prison at the end of life?](#), 2020.

<sup>2</sup> See e.g. M. Greene *et al.* [Older adults in jail: high rates and early onset of geriatric conditions](#), *Health and Justice*, 2018. C. McParland, B. Johnston. [Caring, sharing, preparing and declaring: how do hospices support prisons to provide palliative and end of life care? A qualitative descriptive study using telephone interviews](#). – *Palliat Med.* 2021, pp 563–573.

<sup>3</sup> See e.g. L. Johns *et al.* [A systematic literature review exploring the psychosocial aspects of palliative care provision for incarcerated persons: a human rights perspective](#). – *International Journal of Prisoner Health*, 2021.

<sup>4</sup> See e.g. UN Human Rights Council, [Older persons deprived of liberty - Report of the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler](#), A/HRC/51/27, 9 August 2022, p 7; Council of Europe statistical report – [SPACE I 2022](#), which presents separate data on persons aged 50 and over in the prison population.

<sup>5</sup> See e.g. K. Saks, [Kognitiivne võimekus ja selle ealised muutused](#) (Cognitive ability and its age-related changes), *Sirp*, 3 March 2017.

an environment as close as possible to a normal life. This reduces social exclusion of older people in prison. Older inmates have also been found to have a somewhat calming effect on younger ones. On the other hand, the needs of older people in the regular unit may be left in the background. Older inmates may more often become victims of bullying. For example, due to poorer health, they may not be able to go outside or go to the sports hall. Older inmates may not keep up with the younger ones, and they may opt out of joint activities (e.g. participating in hobby groups) to avoid ridicule. According to prison officers, these people are old and quiet, so they are not given any particular attention.<sup>6</sup>

Some of the elderly inmates who spoke to the Chancellor's advisers used mobility aids (e.g. crutches) that the prison had provided to them. The inmates said the prison has also offered them a rollator and a wheelchair, and they can use them if needed. One inmate noted that guards take into account his state of health and do not always require him to stand up at the morning and evening roll-call. However, some people admitted that it was difficult for them to climb onto the upper bunk and sit for a long period on a hard and backless chair.

The elderly said they stayed mostly in their cell. Inmates in the E-building pointed out that they rarely go to the unit's communal room because the hallways are narrow, they move slowly and get in the way of the younger men. For some, going outside was difficult because of the stairs. The elderly noted that they would like to move more, but participating in ball games (e.g. football, basketball, etc.) in the sports hall is not manageable for them, in which case they generally remain in the role of the spectator. Many are exempt from work duty due to age, although they would like to work. Also, generally they have completed the programmes prescribed by their [individual treatment plan](#). According to the elderly, no other activities (e.g. participation in a hobby group) have been offered to them.

In interviews with the Chancellor's advisers, some older people revealed that they did not have a personal TV and would like to watch the shared television in the units. However, the TV is located in a room where there are often many people talking on the phone or playing board games. Due to impaired hearing, it is difficult to watch TV in such a room. The volume cannot be turned up as it would disturb others and would cause unwanted tensions.

Some older people mentioned that some inmates in the unit demonstrate their power and bully them. This, according to the elderly, is expressed in humiliating and derogatory comments about their age, hygiene and health. But also, for example, in the fact that the most influential inmates decide who can watch which TV channel and when in the communal room, or who can use which phone and when for calling. Due to poor hearing, elderly inmates would like to use a phone that is located in the booth, but allegedly they cannot do so.

Under Rule 2 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the [Mandela Rules](#)), most vulnerable categories of prisoners must be protected and their individual needs taken account of. On account of age and state of health, older people in prison must also be considered vulnerable and in need of a special approach.

The prison should pay special attention to the treatment of this group of convicted and remand prisoners: create a suitable physical environment for them, take into account the medical needs of

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<sup>6</sup> See e.g. UN Human Rights Council, [Older persons deprived of liberty - Report of the Independent Expert on the enjoyment of all human rights by older persons](#), Claudia Mahler, A/HRC/51/27, 9 August 2022; Penal Reform International, APT, [Older persons in detention. A framework for preventive monitoring](#), 2021; ICRC, [Ageing and detention](#), 2018.

the elderly; ensure them an opportunity to build safe relationships and maintain their physical activity and mental capacity. This may mean, for example, the opportunity to train with their own age group, participate in social programs or hobby groups. Physical activity is important so that an elderly person is able to cope with everyday activities on their own for as long as possible. Participating in age-appropriate activities with people of one's own age group presumably ensures a calm atmosphere and, in turn, offers joy of achievement and the experience of a sense of camaraderie. It also has a positive effect on a person's mental health. However, activities together with younger inmates can cause stigmatisation and embarrassment for the elderly if they cannot keep up with the younger people.

The prison has enough vacant cells where older inmates could sleep on the lower bunk. The prison could also consider allowing the elderly to use chairs with backs in the cell and people with challenged mobility to use a lift (e.g. to go outdoors). If necessary, prison rooms should be fitted with handrails to make it easier for the elderly to move both in the cell and in the accommodation unit. Account should also be taken of other accessibility requirements set out in Regulation No 28 of the Minister for Entrepreneurship and Information Technology on the "[Requirements for buildings arising from the special needs of disabled people](#)". Ensuring accessibility, including to the physical environment, for persons with disabilities on an equal basis with others is also one of the main principles in the [UN Convention on the Rights of Persons with Disabilities and its Optional Protocol](#) (Art 3(f), Art 9(1)(a)). The Chancellor thoroughly addressed the issue of conditions of detention of prisoners with disabilities in the recommendation sent to the Ministry of Justice [in 2014](#).

Attention should be paid to the relationships of older prisoners and, if necessary, appropriate measures should be found to prevent the elderly from becoming victims of bullying. Prison officers in their daily work should take into account that communication with the elderly may require time, patience and, if necessary, repeated clarification of matters. It is also important that officers are able to recognise in time the signs of neurodegenerative diseases (which can cause various forms of dementia) or mental health problems (e.g. depression). To this end, prison officers should be trained if necessary.

**The prison should take into account the needs of elderly convicted and remand prisoners and make their detention conditions more suitable for older people. This can mean adapting the physical environment of the prison as well as activities aimed at the elderly and interacting with them.**

### 3. Visits

The Chancellor's advisers observed how the prison receives families and children coming for a short-term or long-term visit. During the inspection, eight women and four children arrived for a visit. Guards receiving the families and children were polite and the procedures prior to the visits took place in a calm atmosphere.

#### 3.1. Contact with next of kin

It is positive that the guards tried to refrain from mentioning the terms of prison work when interacting with families: instead of "meeting with the prisoner", for example, they said "meeting with a loved one". However, the prison should pay more attention to ensuring that, when receiving children, the guards should communicate directly with the children and explain to them what is happening in an understandable and age-appropriate way. For example, several children speaking

a foreign language did not understand the guard's explanations well and were anxious during the procedures preceding the visit.

Empathetic and supportive behaviour by the staff should be promoted and encouraged. When communicating with children, playfulness and jokes also have their place. It helps to relieve children's stress associated with incarceration of their parent and the procedures prior to the visit, and it also contributes to a good experience of the visit.

**The prison should pay more attention than before to communicating with children who come for a visit. Prison officers who come into contact with children should receive the necessary training to deal with children.**

### 3.2. Searches

It is positive that the prison no longer forces children coming to visit a parent to fully undress for a search. This does not always have to be done by adult visitors either. Helping to change the previous practice were amendments introduced to [§ 31\(3<sup>1</sup>\)](#) of the Minister of Justice Regulation No 44 on "The organisation of supervision in prison" on which the Chancellor of Justice also expressed her [opinion](#). Under that provision, a visitor must be searched in a manner respecting the dignity of the person and, in choosing the search measure, the prison must be guided by the principle of proportionality.

However, a large proportion of the women who came for the visits had to undress completely in the presence of two female guards and a service dog. Women could do this gradually, so that part of the body was covered.

The decision for a strip search was based on the check carried out at the prison entrance. In several cases, a search using a body scanner gave reason to believe that there may be prohibited items on the visitor's upper body. When observing the images created by the scanner with the guard, they could be linked to buttons, jewellery and other similar items on women's clothing. Although the prison had doubts about the elements of clothing on the upper body, the women still had to undress completely. Neither the means of the search, nor the behaviour of the service dog or of the women themselves provided reasons for such a decision. Consequently, the decision for such an extensive search cannot be regarded as justified.

**The prison should respect the principle of proportionality when searching a convicted or remand prisoner's next of kin coming for a visit.**

### 3.3. Fee

The fee charged for using rooms for long-term visits is not affordable for all families. It was also considered expensive by the families who had come for a visit and spoke with the Chancellor's advisers.

The materials gathered showed that families had to pay approximately 80 euros for a long-term visit. This fee also contained [goods](#) ordered from the prison shop but most of the fee (approximately 50 euros) was made up by the rent of the room and catering. It should also be taken into account that, in addition to the fee for the visit, the family must also bear the cost of travel to the prison, which might not be insignificant at all.

[Section 23](#) of the Imprisonment Act obliges prisons to facilitate contact of prisoners with their family and next of kin, and under [§ 6](#) of the Act the prison must direct prisoners to lead a law-abiding life. For this, prisons must make contacts and activities facilitating a person's re-socialisation as easy as possible, a conducive factor to this being also communication and meetings with one's family and children. The Chancellor drew attention to this already in the summary of the inspection visit carried out [in 2020](#).

Other activities supporting return to society, such as social programmes, hobby groups, and the like, are free of charge for prisoners. In some cases, the state actually supports a prisoner: for example, the state pays the prisoner for participating in language training. It is completely justified to leave such costs for the state to bear. However, unfortunately the fee imposed on long-term visits does not promote visits. In particular, this affects families with limited financial resources. In particular, charging such a fee may affect the situation of a child who, as a result, is unable to communicate regularly and directly with their parent in prison (see [Art 9\(3\)](#) of the Convention on the Rights of the Child and [§ 143\(1\)](#) of the Family Law Act).

**The prison, in cooperation with the Ministry of Justice, should review the fee imposed for long-term visits. The Ministry of Justice should assess the compatibility of [§ 41<sup>1</sup>](#) of the Internal Prison Rules with [§ 23](#) of the Imprisonment Act.**

### 3.4. Visiting room

Short-term visits with family and children still generally take place in booths where guests are separated from each other by glass. The prison has actually set up a short-term visiting room where family and children can also directly meet with their relative in prison. However, one room is not enough to allow all families and children to meet in this way.

The separation of family members by a glass partition, unless a specific reason exists for doing so, has been repeatedly criticised by the European Court of Human Rights (see e.g. ECtHR judgment of 1 March 2022 in the case of [Kalda v. Estonia](#), paras 6-7), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (see e.g. the CPT's recommendations to [Estonia](#) in 2019, para. 65, and most recently the recommendations to [Austria](#) in 2023, para. 99), as well as the Committee of Ministers of the Council of Europe (see the [recommendation CM/Rec\(2018\)5](#), para. 31). The Supreme Court in the judgment of 17 June 2021 [No 3-19-1416](#) (para. 31) pointed out that, especially when meeting with an infant, the mere absence of a partitioning glass is not enough, the possibility of physical contact and a suitable environment are also important.

**The prison should set up enough rooms in which short-term meetings of convicted and remand prisoners with family and children can be arranged so that they do not have to be separated from each other by a glass wall (unless a clear reason exists for such separation).**

### 3.5. Clothing

The [Draft Act](#) (prepared in 2023) on amending the Imprisonment Act, intends to give prisoners the option to wear their own clothing outside the prison. The explanatory memorandum to the Draft Act states that this is aimed at respecting the dignity of prisoners and avoiding stigmatisation.

It would also be compatible with the explanations and objectives offered by the Ministry of Justice if prisoners meeting their next of kin, in particular children, in prison, could also wear their own



clothes. This would enable to alleviate the strict and punitive impression of the prison in the eyes of children. Meeting with a parent wearing ordinary clothes would help a child to maintain, and in some cases also create, an image of their parent which is as positive as possible. This would enable a prisoner to feel like a dignified parent even while in prison and would thus promote a prisoner's communication with the world outside (§ 23 Imprisonment Act) and would support a prisoner's reintegration into society (§ 6 Imprisonment Act).

The order to issue ordinary clothes for visits would not be different from what prisons would use in a situation where a person goes outside the prison. Several options exist how to arrange the use of clothes: for example, clothes can be brought from the warehouse for the duration of the visit, or a prisoner can be allowed to keep a certain amount of clothes in the cell, or a safe place (e.g. a separate locker) for storing ordinary clothes can be arranged in the unit. Separate lockers are also used, for example, to store prison clothes while a prisoner is wearing disciplinary confinement clothing.

**The prison could allow prisoners to wear their own clothes when meeting next of kin and, in particular, children. The Ministry of Justice should, if necessary, prepare the necessary amendments to the legislation for this purpose.**

#### **4. Officers**

Despite the efforts undertaken by the prison to hire more officers, the number of vacancies is still very high. According to the documents sent by the prison, Tartu Prison has 259 staff positions. At the time of the inspection visit, 69 of these were vacant (43 positions were permanently vacant and 26 positions temporarily vacant).

Convicted and remand prisoners said they rarely come into contact with officers (e.g., during roll-call and food distribution). Several people admitted to the Chancellor's advisers that they only see their inspector-contact person a couple of times a month and generally meet with them through the food hatch or at the cell door. However, often the inspector-contact person calls the person through the cell terminal. Several people did not know who their inspector-contact person was.

In interviews, officers admitted that their workload was very heavy and they felt exhausted. Priority is given to dealing with urgent issues and no time or energy is left for longer and more meaningful communication with convicted and remand prisoners. While touring the prison, the Chancellor's advisers also noticed only a few officers moving about. The guardroom in some sections (e.g. S7-S8) only had one guard for the whole floor, i.e. for more than 40 inmates. According to officers, it often happens that one guard must take responsibility for even up to 80 people.

The shortage of officers (guards, senior guards, inspector-contact persons) having direct contact with convicted and remand prisoners directly affects the working atmosphere. This makes it complicated for convicted and remand prisoners to exercise their legitimate rights and may endanger prison security. In a situation where overwork by officers is customary and they stand in for several colleagues simultaneously, it is not possible to speak of using dynamic security in working with convicted and remand prisoners. The lack of officers worsens the quality of activities offered to prisoners and endangers preparation for their release and rehabilitation. Constant overwork also endangers the health and well-being of officers and does not motivate them to do their work well.

**The prison should continue aspirations in cooperation with the Ministry of Justice in order to fill vacant positions. In particular, this concerns filling positions of officers having direct contact with convicted and remand prisoners (i.e. guards, senior guards, inspector-contact persons).**

## **5. Healthcare**

The inspection revealed that the medical department also had a number of vacancies. Therefore, assistance to convicted and remand prisoners might not be as accessible as it should be (e.g. replying to enquiries by prisoners, waiting times for appointments, frequency of repeat consultations). However, patients, for example, do not have to wait for up to half a year for a dentist's appointment, as may have happened before, but get the appointment faster (in about a month).

Attempts have been made to improve access to medical care by changing the working arrangements of family nurses in 2022, so that family nurses now visit prison units every day. This is a commendable solution as it helps prisoners to communicate directly (and not through a guard or an inspector-contact person) with a healthcare professional and get their concerns resolved more quickly.

However, it is regrettable that even though family nurses visit prison units on a daily basis, they do not monitor the health of people in solitary confinement on their own initiative. The medical department has not acknowledged the potentially harmful effects of solitary confinement on human health and has not changed anything in its work compared to [2020](#) (see para. 1.2.1.). As those in solitary confinement are primarily at risk of psychologically harmful health effects, it is desirable that they are also regularly examined by a specialist with the knowledge and skills of a mental health nurse.

**The prison should take steps to fill vacancies in the medical department. A prison healthcare professional should visit people in solitary confinement every day and assess their condition.**

### **5.1. Initial health examination**

The healthcare expert participating in the inspection visit found that a mental health specialist should be involved in the health check carried out when a person arrives in prison. In addition, according to the expert, mental health questionnaires could be introduced, which a person can fill out independently or, if necessary, with the help of a medical professional. In this way, it is possible to notice already at an early stage the first signs of a mental disorder, the risk of deterioration of the disorder or the risk of self-harm.

The inspection revealed that a convicted or remand prisoner is isolated from others if they refuse to be tested for hepatitis C. Given that hepatitis C is a blood and sexually transmitted disease, in the opinion of the expert, isolating a person is neither necessary nor medically justified. Primarily, a person should be informed about the ways in which the disease spreads and how to limit its further spread.

The inspection also revealed that hepatitis B tests are not performed in prison, although it spreads in the same way as hepatitis C. However, the CPT has repeatedly stressed (e.g. CPT recommendations to Austria in 2023, para. 89) that upon arrival in prison, a person must be offered the opportunity to give a sample to test for both HIV, hepatitis C and hepatitis B. The expert found

that routine examinations of older people or people with previous heart pathologies could also include conducting an electrocardiography (ECG) study. However, the CPT has repeatedly stressed (e.g. the CPT's recommendations to [Austria](#) in 2023, para. 89) that, upon arrival in prison, a person must be offered the opportunity to give a sample to test for both HIV, hepatitis C and hepatitis B. The expert found that routine examinations of older people or people with previous heart pathologies could also include conducting an electrocardiography (ECG) study.

**It is also important to involve a mental health professional in the medical check of a convicted and remand prisoner upon arrival in the prison. It is recommended to introduce mental health questionnaires. Upon arrival in prison, a person must be offered the opportunity to test, among other things, for hepatitis B. Isolating a person because they refuse from certain studies must be medically justified.**

## 5.2. Inventory and medicines

According to the expert, the reception rooms of the medical department are modern and have the necessary equipment. In most cases, doctors and nurses make all entries digitally. The procedures room has a working ECG apparatus, a cardio monitor, a defibrillator, an aspirator and a suitcase with a resuscitation kit for emergency situations, which includes both the necessary medicines and respiratory protective equipment. The department also has a stock of aids (e.g. crutches). The medical department has an X-ray and ultrasound machine that enable carrying out the necessary examinations on-site. In addition, there are apparatuses for carrying out laboratory analyses.

The prison also has AED (automated external defibrillator) resuscitation equipment to act in the event of a sudden cardiac death. However, interviews with prison officials gave rise to a suspicion that they did not all know where the resuscitation equipment was located and how to use it.

The prison has a wide selection of medicines. It is worth acknowledging that there are also stocks of medicines (e.g. amiodarone) which are used for more frequent cardiac arrhythmias (atrial fibrillation), so that the ambulance does not necessarily have to be called to help a patient. A few expired medicines could also be found.

**The location of life-saving equipment and the main principles of their use should be clear to prison officers. The prison should ensure that expired medicines do not end up in a drug dispenser.**

## 5.3. Confidentiality requirement

Interviews with medical professionals and inmates revealed that medical professionals often receive patients in the presence of a guard. According to the expert, this situation is reprehensible in terms of the doctor-patient relationship. Arranging an appointment in such a manner is not compatible with the principle of respect for privacy and confidentiality of a prisoner as patient. If a medical professional considers it important to use additional security measures (e.g. presence of a prison officer) during the appointment, then separate reasoning for this should be provided. The Chancellor has repeatedly drawn the attention of prisons to this (see e.g. opinion [No 7-4/151058/1602270](#) and most recently opinion [No 7-7/230147/2303420](#)).

The principle of confidentiality must also be complied with in prison while distributing medication to convicted and remand prisoners. The practice of distributing medicines in Tartu Prison has not changed compared to [2020](#). That is, medicines prepared and placed in drug dispensers bearing a

patient's name are still distributed to convicted and remand prisoners by guards. The CPT already criticised Estonia for this [in 2014](#) (para. 82) and most recently [in 2019](#) (para. 60).

**Also in prison, medical professionals should ensure the relationship of trust between a doctor and patient and respect the principle of privacy and confidentiality while providing healthcare services. The prison should reorganise dispensing of medication prescribed by a doctor to convicted and remand prisoners so that medicines are distributed only by healthcare professionals.**

#### **5.4. Patient rooms**

The expert is of the opinion that cells No 1052, No 1068 and No 1069, which the medical department also uses to provide inpatient nursing care services (4 beds) are completely unsuitable for this. These are normal lockable cells located away from the medical department, so that a healthcare professional is not immediately accessible if needed, and a patient cannot be medically monitored properly enough. The cells do not have call buttons necessary for bedridden people, the interior of the cell is not suitable for caring for the seriously ill. These cells are not adapted for patients with reduced mobility (e.g. in a wheelchair).

There are rooms in the prison that would be suitable for use as patient rooms. For example, room No. 1205, located next to the medical department and in front of the psychiatric department, could be suitable for this.

**The prison should create rooms at or in the immediate vicinity of the medical department that would also be suitable for the provision of inpatient nursing care.**

#### **6. Psychiatric department of prisons**

Regrettably, the situation in the psychiatric department of prisons has remained the same for years. Neither the CPT's recommendations to [Estonia](#) given in 2019 (paras 62-63) nor the recommendations of the Chancellor of Justice, which are presented, inter alia, in the summary of the inspection visit carried out in [2020](#), have been followed. These recommendations concerned the department's living conditions and therapy options, as well as video surveillance and the use of means of restraint. The reasons for the recommendations are well known to both Tartu Prison and the Ministry of Justice.

**Decent conditions conducive to healing should be created in the psychiatric department of prisons. If the prison is unable to provide psychiatric care in accordance with the law, the patient should be taken to an appropriate medical institution.**

**I would also ask the prison to take into account the opinion and recommendations of the expert who participated in the inspection.**

On 6 May 2023, the psychiatrist (also having the qualifications of a specialist in forensic psychiatry) participating in the inspection examined the premises of the psychiatric department of prisons, interviewed a nurse of the department, two guards and one patient. In addition, the expert examined the patients' medical records, the documents of the department and the information collected by the officials from the Chancellor's office participating in the inspection (including information obtained from interviews with patients). The expert also participated in the Chancellor's inspection visits to the psychiatric department of prisons in 2011 and 2016.

The psychiatric department of prisons has 18 beds for treatment. At the time of the inspection, there were seven patients in the department, six of whom were under psychiatric treatment and one under forensic examination. Considering that there are about 2000 prisoners in Estonia, the expert estimates that 18 beds for inmates in need of psychiatric treatment are not enough. Since there were also a large number of vacant beds in the psychiatric department of prisons at the time of the inspection, the expert believes that the question arises as to whether outpatient psychiatric care in prisons is sufficient and whether prisons are able to identify people in need of hospitalisation and refer them to treatment. The inspection also revealed that female patients are rarely brought to the department. At the same time, the expert noted that access to psychiatric care for women, as well as elderly prisoners, in particular, should be given special attention.

### **6.1. Treatment conditions**

According to the expert, the psychiatric department of prisons still resembles a prison unit with locked cells, and not a psychiatric hospital. Patients stay in the rooms in conditions similar to solitary confinement. That is, they are locked in the cell for 23 hours a day. Such conditions, according to the expert, can actually worsen the patient's mental state.

The patient rooms were warm and sufficiently large, but bleak and with scanty furnishings. Suicidal patients are not given tear-proof bedding. The department does not have dayrooms for the communal pastime of patients or rooms necessary for therapies.

Patients can read newspapers and books in the cell and listen to the radio. They can also put together jigsaw pictures. There is no shared television that patients can watch in the department. The department has a small selection of books, to which the staff themselves have also brought books. Patients cannot borrow books from other prison units.

Patients can go for a walk one by one for an hour a day. A large number of patients did not make use of the possibility of walking, inter alia, because it is offered only once a day and often in the morning. If patients waive the possibility to go outside (e.g. because they feel poorly), they will not be offered another opportunity during the day.

Extending the exercise area to a green area is an improvement. At the same time, benches were lacking in the part of the walking area with concrete boxes, and very loud music was playing in the walking area, which a patient cannot turn off. According to the expert, it is difficult to consider such conditions as decent, so that it is understandable that patients often do not want to go outdoors.

All patients in the department are still subjected to constant video surveillance both in the patient rooms and in the toilet and washroom. Reasoning of the decisions for using video surveillance was mostly scarce and contained similar language. No separate reasoning is given as to why a patient also needs to be monitored in the washroom and the toilet.

The prison has failed to ensure the possibility of at least two hours of meaningful interaction a day for patients in the psychiatric department. According to the expert, staff numbers in the psychiatric department are too low to be able to offer patients adequate human contact. The medical staff mostly communicate with patients for a short period and usually communication takes place through the food hatch. The expert pointed out as a concern that medical professionals are allowed to enter a patient's room only in the presence of a guard, and medical professionals do not have the keys to the patient rooms. In such a situation, emergency assistance may be delayed.

A nurse in the psychiatric department works 24-hour shifts. Most of the time, the nurse monitors patients via a video camera. According to the expert, 24 hours is too long for one shift. This does not enable providing a high-quality nursing service, i.e. offering support and activities to patients and carrying out supervision.

The department has a guardroom, where usually one guard is present. On the day of the inspection, there was a guard in the department who does not deal with patients in the psychiatric department on a daily basis. Similarly to the nurse, the guard must primarily monitor the camera feed and make rounds of the department once an hour to check the condition of the patients through the observation hole in the cell door. According to the guard, he too is not allowed to enter the patient rooms alone, to do this he must call a guard from another department.

The inspection revealed that the guards dealing with patients in the psychiatric department had not received training to work with sick people, but would like to get it. It was also found that the guards were not aware of the dangers that can result from the application of direct coercion in respect of a patient who behaves aggressively, and more specifically, from placing them on the stomach on the floor.

The entries in the medical records reviewed by the expert were scarce, but the nurses had made regular entries about the condition of the patients. Psychiatric treatment is based on medicines, which, in the opinion of the expert, is justified and up-to-date in itself. No instances of chemical restraint were found.

Two patients with alcohol delirium were also being treated in the department, which, according to the expert, is a condition requiring intensive care. The expert noted that patients with alcohol delirium are nowadays no longer treated in a psychiatric ward.

## **6.2. The use of means of restraint**

At the time of the inspection, there were no patients under involuntary treatment. Departmental staff confirmed that involuntary treatment and means of restraint had not been used in the department for a long time. However, means of restraint (straps) were available in the department.

The materials collected during the inspection visit showed that, during the period under review, indeed no means of restraint had been used in respect of patients under [§ 14](#) of the Mental Health Act. Actually, this could not even have been done while only one nurse is on duty in the department – it is impossible for the nurse to decide on applying involuntary treatment, to restrain a patient [if necessary](#) and ensure the [required](#) supervision of the condition of the patient under restraint.

However, the materials examined revealed that patients in the psychiatric department had been subjected to both direct coercion and restrained in handcuffs. This was done on the basis of [§§ 69-71](#) of the Imprisonment Act (e.g. report No 2-23/1-1/1 and medical case No A5892; report No 2-23/1-1/1 and No 2-22/1-1/16 and entries in the nursing journal in connection with the case from 12 December 2022 to 16 January 2023; report No 2-22/1-1/20 and medical case No A24364). In respect of one patient, handcuffs were used repeatedly during a period of approximately one month (e.g. during roll-call).

Restraining psychiatric patients with handcuffs is not in line with the requirements and principles for the provision of psychiatric care and is an extremely worrying and deplorable practice. This

constitutes strong interference of prison officers in the work of the department. The CPT has repeatedly considered it unacceptable for psychiatric patients (including persons subject to forensic psychiatry) to be handcuffed both for purposes of restraint and transport (see e.g. the CPT's recommendations to [Moldova](#) in 2020, para. 137; the CPT's recommendations to [Greece](#) in 2019, para. 56). Unfortunately, neither the doctors nor nurses in the psychiatric department have seen a problem in patients being restrained by handcuffs and the patients being restrained by guards without special training.

Doctors and other healthcare professionals have also inevitably been exposed to dangerous behaviour of patients when providing psychiatric care outside the prison. In some hospital departments, only patients with dangerous behaviour are being treated (e.g. the coercive treatment department at the psychiatric clinic of Viljandi Hospital). However, unlike the psychiatric department of prisons, a hospital team can cope with a patient's aggressive or self-harming behaviour without the use of handcuffs and, as a rule, on their own – there is rarely a need to call additional external assistance (e.g. the police).

To conclude, the expert considers that the premises of the psychiatric department of prisons are not suitable for the provision of psychiatric care, and the treatment conditions and treatment options are still inadequate. However, convicted and remand prisoners in need of psychiatric hospitalisation should be treated on the same basis and according to the same treatment recommendations as in psychiatric wards in mainstream hospitals. The expert pointed out that there is enough information available about the organisation of high-quality psychiatric care. For example, in the United Kingdom, [Quality Standards for Prison Mental Health Services](#) were reissued in 2021. The recommendations offered there could also be used for improving and developing psychiatric care provided in Estonian prisons.

If the prison is unable to provide the care appropriate to the condition of an inmate in need of psychiatric treatment, the CPT considers that the patient should be taken to a hospital (see e.g. the CPT's recommendations to [Norway](#) in 2019, para. 97). [Section 53\(2\)](#) of the Imprisonment Act also states that if the prison lacks the possibility to treat a prisoner in prison, the prisoner must be referred to treatment at a relevant specialised medical care provider. The same should be done with remand prisoners who have fallen ill ([§ 93\(6\)](#) and [§ 90\(1\)](#) of the Imprisonment Act in conjunction with §§ [52](#) and [53](#)).

I expect feedback on the recommendations from Tartu Prison and the Ministry of Justice by 24 January 2024.

Yours sincerely,

*/ signed digitally/*

Ülle Madise

Copy: Tallinn Prison, Viru Prison, Ministry of Social Affairs

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