



CPT/Inf (2005) 6

**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 23 to 30 September 2003

The Estonian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2005) 7.

Strasbourg, 27 April 2005

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Copy of the letter transmitting the CPT's report

Strasbourg, 14 April 2004

Dear Madam, Dear Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Estonia drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Estonia from 23 to 30 September 2003. The report was adopted by the CPT at its 53rd meeting, held from 1 to 5 March 2004.

I would like to draw your attention to paragraph 144 of the report, in which the CPT requests the Estonian authorities to provide, **within six months**, a response setting out the action taken upon its visit report. The CPT would ask, in the event of the response being forwarded in Estonian, that it be accompanied by an English or French translation. It would also be most helpful if the Estonian authorities could provide a copy of the response in electronic form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully,

Silvia CASALE
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

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 visit to Estonia from 23 to 30 September 2003. The visit formed part of the CPT's programme of periodic visits for 2003, and was the second periodic visit to Estonia to be carried out by the Committee.¹

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

- Ole Vedel RASMUSSEN (Head of delegation)
- Aleš BUTALA
- Emilia DRUMEVA
- Tatiana RĂDUCANU
- Erik SVANIDZE.

They were supported by the following members of the CPT's Secretariat:

- Bojana URUMOVA
- Michael NEURAUTER,

and assisted by

- Enda DOOLEY, Director of Prison Health Care, Irish Prison Service, Dublin, Ireland (expert)
- James MacKEITH, Consultant Forensic Psychiatrist, London, United Kingdom (expert)
- Meelis LEESIK (interpreter)
- Margus PUUSEPP (interpreter)
- Vivian RENNEL (interpreter)
- Eve TARM (interpreter)
- Piret VIILU (interpreter).

¹ The first periodic visit to Estonia took place from 13 to 23 July 1997; the CPT also carried out an ad hoc visit from 15 to 21 December 1999, focusing on the situation in the Social Welfare Home in Valkla and on the conditions of detention in police arrest houses. The visit reports and the responses of the Estonian authorities were published in October 2002 (documents CPT/Inf (2002) 26, 27, 28 and 29).

B. Establishments visited

3. The delegation visited the following places:

Establishments under the Ministry of the Interior

- Harju Arrest House, Saue
- Jõgeva Arrest House
- Kohtla-Järve Arrest House
- Narva Arrest House
- Tallinn Arrest House
- Tartu Arrest House
- Harju Police Headquarters, Saue
- Kohtla-Järve Police Station
- Narva Police Headquarters
- Põhja Police Department, Tallinn

Establishments under the Ministry of Justice

- Central Prison Hospital, Tallinn
- Tallinn Prison
- Tartu Prison

Establishments under the Ministry of Social Affairs

- Ahtme Psychiatric Hospital
- Kernu Social Welfare Home.

C. Consultations held by the delegation

4. In the course of the visit, the delegation held consultations with Ken-Marti VAHER, Minister of Justice, and Allar JÕKS, Legal Chancellor of the Republic, as well as with senior officials from the Ministries of Justice, the Interior, and Social Affairs. It also met representatives of non-governmental organisations active in the CPT's areas of interest.

A list of the national authorities and non-governmental organisations met by the delegation, is set out in Appendix II to this report.

D. Co-operation between the CPT and the Estonian authorities

5. The degree of co-operation received by the CPT's delegation from the Estonian authorities during the visit was excellent. In particular, the reception received at all places visited, including those which had not been notified in advance, was very good.

However, the principle of cooperation set out in the Convention 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 Committee's key recommendations.

6. At the end of the visit, the delegation informed the Estonian authorities that it was gravely concerned by the failure to implement the CPT's key recommendations made in the reports on the 1997 and 1999 visits concerning the conditions of detention in police arrest houses, despite assurances to the contrary given by those authorities.²

The CPT must stress that if such a state of affairs were to persist, it would be obliged to consider having resort to Article 10, paragraph 2, of the Convention³.

² Cf. in this regard paragraphs 25 to 29 below.

³ Article 10, paragraph 2, reads as follows: "If the Party fails to cooperate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

E. Immediate observations under Article 8, paragraph 5, of the Convention

7. At the end-of-visit talks on 30 September 2003, the delegation made three immediate observations under Article 8, paragraph 5, of the Convention.

The first immediate observation concerned Kohtla-Järve and Narva Police Arrest Houses, as well as other arrest houses where similar conditions of detention prevailed. The cumulative effect of the execrable material conditions and the impoverished regime applied to all detainees held in those establishments amounted, in the delegation's view, to inhuman and degrading treatment. The situation was exacerbated by the fact that persons were being held under such conditions for prolonged periods. The delegation requested that urgent steps be taken to improve conditions of detention in police arrest houses.

The second immediate observation was made in respect of the "restraining cells" at Tartu Prison. Each of those cells was fitted with four metal rings anchored to the floor, in order to secure a person hand and foot while lying spread-eagled on the back. The delegation requested that the four metal rings in each of those cells be removed immediately, and that it be ensured that four-point restraint using metal cuffs to immobilise a detainee is never used.

The third immediate observation related to the Central Prison Hospital, where the material conditions had, in most respects, deteriorated since the CPT's first visit in 1997. All patients (except those suffering from tuberculosis) were locked up in their cells for 24 hours per day, without even being offered outdoor exercise; in addition, a number of cells did not have natural light, since the windows were covered with metal plates. The delegation requested that:

- (i) all patients, whose health status permits, be offered at least one hour of outdoor exercise per day; and that
- (ii) metal plates be removed from the windows of cells accommodating patients.

8. The observations were confirmed in a letter dated 22 October 2003 addressed by the President of the CPT to the Estonian Ministry of Justice. The Committee requested the Estonian authorities to provide, within three months, an account of the measures taken in response to the first immediate observation and, within one month, an account of the measures taken in response to the second and third immediate observations.

By letters of 30 October 2003, 31 December 2003 and 13 January 2004, the Estonian authorities provided comments on various issues raised by the delegation at the end of the visit, including the immediate observations referred to above. This information has been taken into account in the relevant sections of the present report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

9. The CPT's delegation carried out follow-up visits to six police arrest houses, and to the police stations or headquarters attached to three of those establishments (Harju, Kohtla-Järve and Narva). It also visited, for the first time, the Põhja Police Department in Tallinn.

10. The police may hold a person suspected of a criminal offence on their own authority for up to 48 hours. The person concerned must be interviewed by a police "investigator" within 24 hours, starting from the time of deprivation of liberty. If an investigator is not yet in a position to bring charges at the end of the initial 48 hour period, the period of police custody can be extended by the order of a judge for up to 10 days. In exceptional cases, police custody can subsequently be extended to a maximum of 30 days. If the person concerned has not been charged by that time, he or she must be released.⁴ Throughout this detention period of up to 30 days, prior to the bringing of formal charges, the person will be held in a police arrest house.

Persons against whom a criminal charge has been brought may be remanded in custody by an investigating judge, and placed in the remand section of a prison; however, the Imprisonment Act of 2000 has introduced the alternative possibility of placing such persons in a police arrest house.⁵ Further, on the decision of the relevant police investigator, remand prisoners may be returned to police custody from prison (and placed in a police arrest house), if this is considered necessary for the preliminary investigation; the delegation found certain cases where remand prisoners were returned to arrest houses for periods up to one month (cf. in this regard paragraph 22 below).

Other possible grounds for placement in a police arrest house include administrative detention (up to 30 days) of persons found guilty of minor offences,⁶ short prison sentences (up to three months)⁷ and, on authorisation by the relevant prosecutor, the detention (up to 14 days) of sentenced prisoners who could provide information related to a criminal offence committed by another person.⁸

To sum up, the maximum periods during which persons may be held in a police arrest house have increased since the CPT's previous visit.⁹ In practice, during the September 2003 visit, the delegation found cases where persons were being held in an arrest house for three months or even longer.

⁴ Cf. Section 67 of the 1961 Code of Criminal Procedure (as amended up to 2003).

⁵ Cf. Section 90 (1) of the Imprisonment Act (2000). It should be noted that persons may be held on remand up to six months or, exceptionally, up to one year (cf. Section 74 of the 1961 Code of Criminal Procedure, as amended up to 2003).

⁶ Cf. Section 85 of the Imprisonment Act (2000) and Section 48 of the Penal Code (2001).

⁷ Cf. Section 85 of the Imprisonment Act (2000).

⁸ Cf. Section 337 of the 1961 Code of Criminal Procedure (as amended up to 2003).

⁹ Such periods were previously limited to a month.

11. It should also be noted that a new Code of Criminal Procedure was adopted in 2003 and will enter into force in July 2004. Its relevant provisions will be discussed in subsequent sections of this report (cf. paragraphs 17 and 36 to 38).

2. Ill-treatment

12. The majority of persons deprived of their liberty interviewed during the visit made no allegation of ill-treatment in police custody. In particular, the delegation received hardly any complaints about the manner in which detained persons were treated by custodial staff of arrest houses. However, the delegation did receive some allegations of ill-treatment by other police officers; those accounts included being punched, kicked or struck with batons, and related both to the time of apprehension as well as the time spent in a police establishment. In certain cases, the delegation was able to verify that the persons concerned had been held in police establishments during the periods to which the ill-treatment in question had been ascribed; moreover, certain of them provided accurate descriptions of the offices where they claimed it had taken place. There were also a few cases - examples of which are set out in the following paragraph - where the delegation gathered supporting medical evidence, consistent with the persons' accounts of ill-treatment.

13. In one case, a detainee alleged that he was severely beaten by police officers in a room (adjacent to the duty officer's premises) at the Põhja Police Department in Tallinn at the beginning of 2003. In particular, he claimed that he was punched on the right cheekbone and kicked on the right side of the chest while he was lying on the floor. Apparently, due to the injuries he sustained on that occasion, the person required emergency treatment at a hospital. The delegation's doctors reviewed the relevant hospital record from January 2003, which contained an identical account of the person's allegations of ill-treatment, and indicated further that he displayed: a haematoma (10 x 4 cm) and pain on palpation on the right part of the chest in the area of ribs 8 to 10; abrasion (0.5 cm) and redness on the right cheek; and fractures of right ribs 8 to 10. In the view of the delegation's doctors, the injuries recorded are consistent with the person having been ill-treated in the manner which he described.

Another detainee alleged that, at the time of his apprehension in an apartment some two weeks prior to his interview with members of the delegation, a police officer from the Lõuna Police Department in Tallinn kicked him on the right side of his chest while he was lying on the floor. The person complained to one of the delegation's doctors of persisting pain on the right side of the chest, which felt worse on deep inhalation; upon examination, he displayed tenderness over the antero-medial aspect of ribs 6 to 8 on the right side, the area being tender to direct pressure and to indirect sternal pressure. In the view of the delegation's doctor, those injuries are consistent with the person's allegations of having been struck in the manner which he described.

14. As in 1999, the delegation received far fewer allegations of police ill-treatment as compared to the CPT's first visit to Estonia in 1997. Nevertheless, the information set out in paragraphs 12 and 13 illustrates the need for continued vigilance on the part of the Estonian authorities. Further, according to the Annual Report for 2002 of the Office of the Legal Chancellor, of the 74 complaints against the police received by the Office in the course of that year, "many related to impolite behaviour, insults, or unjustified violence".

The CPT recommends that senior police officers regularly instruct police officers that: ill-treatment will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of ill-treatment will be subject to severe sanctions.

15. As regards, more particularly, the alleged use of excessive force at the time of apprehension, the CPT fully recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists apprehension and/or is someone whom the police have good reason to believe represents an immediate danger. The circumstances of an apprehension may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an apprehension. Furthermore, once apprehended persons have been brought under control, there can be no justification for their being struck by police officers. **The CPT recommends that police officers be reminded of these precepts.**

16. During the visit, the Estonian authorities provided the delegation with statistics of complaints of police violence and related criminal cases¹⁰ initiated against the officers concerned. For the year 2000, there had been 19 such complaints, two of which resulted in criminal investigations; in 2001, there had been 14 complaints and five criminal investigations; in 2002, 13 complaints and three criminal investigations and, from January to September 2003, there had been 12 complaints. In order to obtain a more complete and up-to-date picture, **the CPT would like to receive an account, covering the period from 1 January 2003 to the present time, of all complaints of police violence received and the outcome of the relevant disciplinary and/or criminal proceedings (allegations, brief descriptions of the findings of the relevant court or body, verdict, sentence/sanction imposed).**

17. In the interests of prevention of police ill-treatment, the CPT cannot overemphasise the importance of all persons in respect of whom prolongation of police custody beyond 48 hours is proposed being physically brought before the judge who must authorise that measure.¹¹ In this regard, it is pleased to note that the new Code of Criminal Procedure *requires* the Prosecutor's Office to bring a criminal suspect before an investigating judge for the adjudication of an application for custody on remand.¹² **The CPT would like to receive confirmation that, under the new Code of Criminal Procedure, there is no longer the possibility for detained persons to waive their right to be brought before the judge who must decide on the prolongation of police custody beyond 48 hours.**

¹⁰ The CPT has also noted with interest that the Legal Chancellor may recommend disciplinary or criminal proceedings against individual police officers. In 2001, the Office of the Legal Chancellor recommended that disciplinary proceedings be initiated against police officers in three cases, and that criminal proceedings be initiated in one case.

¹¹ Cf. in this regard paragraph 21 of CPT/Inf (2002) (26) and paragraphs 33 to 34 of CPT/Inf (2002) 28.

¹² Cf. Section 217(8) as well as 131(2), (3) and (4) of the 2003 Code of Criminal Procedure (to enter into force on 1 July 2004).

18. It is axiomatic that judges and public prosecutors must take appropriate action when there are indications that ill-treatment by the police may have occurred. In this regard, **the CPT recommends that, whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.**

19. The CPT wishes to stress that the duty of care which is owed by the police to persons in their custody includes the responsibility to ensure the safety and physical integrity of detained persons. The importance of this principle was highlighted by a serious incident which was brought to the delegation's attention in the course of the September 2003 visit. The case in question was a suicide by a detainee (hanging using a belt) which had taken place in one of the temporary holding cells at Narva Arrest House three days prior to the delegation's visit to the establishment.

In this connection, it should be emphasised that for many persons, the fact of having been detained by the police will be a highly stressful experience. It follows that **police officers should be alert to any potential for self-harm and, more specifically, ensure that newly-detained persons do not have ready access to means of harming themselves (belts, ties, broken glass, etc.).**

The CPT wishes to be informed of the outcome of the inquiry initiated following the above-mentioned incident, and of any measures taken in response.

20. It is also axiomatic that the proper monitoring of custody areas is an integral component of the police's duty of care. This implies that there should be an ongoing presence of police officers in the vicinity of cells which are accommodating detained persons. Further, the situation of persons detained should be regularly monitored through direct visual control. It is also important that means should exist (e.g. a call system) enabling detained persons to attract the attention of a police officer.

The CPT recommends that immediate steps be taken to ensure that all police cells, including those in arrest houses, are adequately monitored, taking into account the above remarks.

21. Conditions of detention in police arrest houses are dealt with detail in the following section. The CPT's delegation considered that, in certain of those establishments, the conditions amounted to inhuman and degrading treatment.

22. Finally, certain remand prisoners alleged that their return to arrest houses for lengthy periods (cf. paragraph 10) - and, in some cases, subsequent transfer from one arrest house to another – constituted a “pressure” or “intimidation” tactic employed by police investigators, who were well aware of the extremely poor conditions which prevailed in certain of those establishments. In this regard, an examination of the relevant documents revealed that the precise *reason* for authorising a removal of a particular inmate from a prison was not always given.

The Committee remains firmly of the view that it would be far preferable for further questioning of persons committed to prison to take place in prison rather than on police premises. The return of prisoners to police premises for whatever purpose should only be sought and authorised when absolutely unavoidable.

The CPT reiterates the recommendation made in paragraph 23 of its 1997 visit report (cf. CPT/Inf (2002) 26), that, in respect of every occasion on which inmates are removed from prison at the request of a police investigator, a formal record be kept of the reason for their removal and of all measures taken during their presence on police premises.

3. Conditions of detention

23. At the outset, the CPT's basic standards for conditions of detention in police custody should be recalled.

All police cells should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in police custody should be allowed to comply with the needs of nature in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

a. police arrest houses¹³

24. In most countries visited by the CPT, persons are held for only a relatively short time on police premises. However, as already indicated (cf. paragraph 10), in Estonia a person can be held in a police arrest house for prolonged periods, which can reach - and, on occasion, exceed - three months. Persons held for such periods of time are entitled to expect conditions of detention which are significantly better than the elementary requirements described above, as well as a proper regime of activities.

The 2003 visit revealed that arrest houses in Estonia were - to an even greater extent than in 1997 or 1999 - in effect being used as prisons.

¹³ As regards health care in police arrest houses, cf. paragraphs 39 to 40 below.

25. In its first report to the Estonian authorities, drafted following its 1997 visit, the CPT was highly critical of conditions of detention in police arrest houses.¹⁴ In the report on its 1999 visit, the Committee acknowledged the progress made in terms of the material environment offered by new arrest houses. Nevertheless, it noted that a number of aspects of the new facilities were unsatisfactory, and that the older arrest houses¹⁵ remained unacceptable; with a view to improving the situation in the establishments concerned, it made a number of specific recommendations.¹⁶

Despite the assurances given by the Estonian authorities,¹⁷ the 2003 visit revealed that they have in fact failed to implement the CPT's key recommendations concerning conditions of detention in arrest houses.

26. The material conditions under which detained persons (in police custody, on remand or sentenced) were being held in certain police arrest houses, including those in *Kohtla-Järve* and *Narva*, were appalling; conditions also remained very poor in *Jõgeva*.

Detainees were locked up 24 hours per day - with no outdoor exercise - in cells that were filthy, dimly lit (with no access to natural light, and poor artificial lighting) and severely overcrowded (up to 15 persons in a cell of 15 m²).¹⁸ The unpartitioned lavatories - where persons were obliged to relieve themselves in the direct presence of their cellmates - exacerbated the effects of the very poor ventilation, rendering the already dank air nauseating. In many cases, persons were provided with no mattresses and blankets, and lacked basic personal hygiene products. The cumulative effect of the execrable material conditions and the impoverished regime could well be described as inhuman and degrading. This state of affairs was exacerbated by the fact that persons were being held under such conditions for prolonged periods (i.e. for up to three months and, on occasion, even longer).

As regards, more particularly, the arrest house at Narva, following complaints made by detainees, the Office of the Legal Chancellor performed an on-the-spot inspection of the establishment in February 2003. In a letter subsequently addressed to the Minister of the Interior, the Legal Chancellor recommended inter alia that improvements be made to lighting, and that at least one daily hour of outdoor exercise be offered to detainees; further, he indicated that the internal regulations violated Section 45 (1) of the Imprisonment Act of 2000, which relates to "requirements of construction technology, health and hygiene", as well as lighting. It is clear from the delegation's findings that no action has been taken on the Legal Chancellor's recommendations.

¹⁴ Cf. paragraph 38 of CPT/Inf (2002) 26.

¹⁵ Those included the Kohtla-Järve and Narva Arrest Houses.

¹⁶ Cf. paragraphs 22 to 26 of CPT/Inf (2002) 28.

¹⁷ Cf. paragraphs 22 to 24 of the response of the Estonian Government to the CPT's 1999 visit report (CPT/Inf (2002) 29).

¹⁸ In a number of cases, the levels of arrest house overcrowding in September 2003 actually exceeded those observed by the CPT in 1997 and 1999.

27. The relatively new arrest houses at *Tallinn* and *Tartu* offered better material conditions; however, notwithstanding the recommendations made by the CPT in its 1999 visit report, they remained devoid of lavatory partitioning, and the small (3.3 m²) cells at Tartu were still being used as overnight accommodation. As for the *Harju* Arrest House in Saue (an older facility, though one which also offered better material conditions than Jõgeva, Kohtla-Järve or Narva), with the exception of the provision of mattresses, no improvements had been made since 1997; in particular, it remained impossible to lie down in cells where the sleeping platform was interrupted by a vertical structure.¹⁹

28. An impoverished regime - 24-hour in-cell lock-up - remained the norm for everyone detained in an arrest house. Of the six arrest houses visited by the delegation, Jõgeva was the only one where detainees were being offered the opportunity to take outdoor exercise, albeit only twice a week or so. Even if a particular establishment was equipped with yards, staff shortages were cited as reasons for not granting outdoor exercise to detainees. The promised enlargement of the 6 m² "yards" at Tartu Arrest House had not taken place, and they remained unused.

As regards contacts with the outside world, the Internal Rules of Tallinn Arrest House permitted one two-hour visit once a week. However, many persons detained at other arrest houses complained that they were allowed only one 15-minute visit per month.

29. The material conditions of detention of juveniles were no different, and the regime offered to them no less impoverished, than was the case for their adult counterparts. Particular mention should be made of a 16-year old boy held at Narva Arrest House, who - due to lack of space in ordinary cells - had been placed in a punishment cell of 2.5 m² for ten days with no mattress or blankets. In a number of cases, juveniles were placed in the same cells as adults, including for prolonged periods. Such a situation is totally unacceptable.

30. As already mentioned (cf. paragraph 7), at the end-of-visit talks on 30 September 2003, the delegation made an immediate observation concerning Kohtla-Järve and Narva Police Arrest Houses, as well as other arrest houses where similar conditions of detention prevail. It requested the Estonian authorities to take urgent steps to improve conditions of detention in police arrest houses and, in particular, to ensure that:

- (i) all persons held overnight in an arrest house are immediately provided with a clean mattress and clean blankets as well as with personal hygiene products (toilet paper, soap, tooth brush and paste, towel, sanitary towels, etc.);
- (ii) all persons who are detained for prolonged periods are granted at least one hour of outdoor exercise per day;
- (iii) all cells are fitted with adequate artificial lighting.

¹⁹ Cf. in this regard paragraph 41 of CPT/Inf (2002) 26, read in conjunction with paragraphs R-17 and R-18 of each of the responses (interim and follow-up) of the Estonian authorities (both of which have been published under reference document CPT/Inf (2002) 27).

31. In response to the above-mentioned immediate observation,²⁰ the Estonian authorities acknowledged that the situation was not satisfactory, indicating that conditions in arrest houses remain an issue of concern to them and that "the improvement of the situation is ongoing".

Responding to item (i) above, the authorities indicated that "a sufficient number of bedsheet sets have been provided [...]; bedsheets are changed regularly". It was further indicated that persons are provided with "basic toiletries, if necessary." **The CPT wishes to receive confirmation that "bedsheet sets" include clean mattresses and clean blankets.**

With reference to item (ii), it was affirmed that, of the 17 arrest houses in Estonia, only four²¹ have "appropriate walking yards", where "persons have the possibility to stay in the open air for an hour a day"; in the remaining 13 establishments, construction or renovation of walking yards was envisaged for 2004.

As for item (iii), it was indicated that "artificial lighting and ventilation have been improved" in six arrest houses²² and will be brought "into compliance" in the remaining arrest houses in 2004.

32. It is clear from the response of the Estonian authorities that much work remains to be done. Acknowledgements that the situation is problematic are a first step, which must be followed by resolute and sustained action - founded on a solid, properly-resourced strategy - to improve conditions of detention in arrest houses. **The CPT calls upon the Estonian authorities to take all necessary steps to implement, without further delay, its recommendations concerning material conditions of detention in police arrest houses.**²³ **The strategy for improving conditions of detention should include regular independent inspections of the premises concerned.**

The CPT recommends that immediate steps be taken to ensure that juveniles placed in arrest houses are accommodated separately from adult detainees. Juveniles detained for prolonged periods should be provided with a programme of educational activities (including physical education).

Further, **the CPT trusts that it will receive a copy of the standard design for arrest houses.**²⁴

33. As regards the organisation of a regime of activities, while recognising that it is difficult in establishments with an unpredictable turnover, **the CPT recommends that, as a first step, reading matter be provided to persons held in arrest houses. Consideration should also be given to permitting them to keep radios or television sets in their cells.**

The CPT also recommends that anyone held in an arrest house for a prolonged period should be permitted to maintain contacts with the outside world according to the same principles as those which should apply to a person held in prison (cf. in this regard paragraphs 71 to 75 below).

²⁰ Cf. the letter dated 13 January 2004 of the Estonian Minister for the Interior to the Executive Secretary of the CPT.

²¹ The Järva (Paide), Jõgeva, Rapla, and Viljandi Arrest Houses.

²² The Järva (Paide), Lääne-Viru (Rakvere), Rapla, Tallinn, Tartu, and Valga Arrest Houses.

²³ Cf. paragraphs 39 to 41 of CPT/Inf (2002) 26 and paragraphs 23 to 25 of CPT/Inf (2002) 28.

²⁴ Cf. in this regard paragraph 22 of CPT/Inf (2002) 29; further, during the September 2003 visit, officials from the Ministry of the Interior confirmed that a standard design for arrest houses (with walking yards, and "separated" sanitary facilities) had been drawn up.

34. To close this section on a more positive note, the Estonian authorities indicated during the visit that they expect the building of a new regional prison in Ida-Viru County (cf. paragraph 42 below) to reduce the strain on arrest house capacity, obviate the need for prolonged placements, and lead to an improvement of conditions of detention.

b. other police detention facilities

35. At Põhja Police Department in Tallinn, the four very small (2.4 m²) sobering-up cells and a larger (6.7 m²) holding cell - all of which were being used for overnight accommodation - were devoid of furnishings (except for a bench), mattresses, bedding, and had no access to natural light. Further, artificial lighting and ventilation were poor, and the cells were dirty. **The CPT recommends that the aforementioned shortcomings be remedied.**

More generally, **conditions of detention in all police establishments in Estonia should be reviewed, having regard to the criteria set out in paragraph 23 above.**

4. Safeguards against the ill-treatment of persons deprived of their liberty

36. It may be recalled that under the Estonian Constitution, persons deprived of their liberty shall be given the right to notify a third party of their custody.²⁵ Further, the Code of Criminal Procedure (applicable at the time of the visit) stipulates that criminal suspects are given the opportunity to notify a third party "through a preliminary investigator, prosecutor or the court if such notification does not damage the criminal proceedings".²⁶ However, the new Code of Criminal Procedure (adopted in 2003, and due to enter into force on 1 July 2004) makes no explicit reference to this fundamental safeguard.

The forms entitled "Protocol of detention of a criminal suspect" - which such persons were requested to sign - contained spaces for recording notification of a third party. However, in some of the forms examined during the visit, the relevant entries were left blank; further, certain detainees claimed that they had not been given an opportunity to exercise this right.

37. **The CPT recommends that the new Code of Criminal Procedure be amended to include explicit reference to the right of notification of custody, incorporating fully the principles set out by the Committee in its previous visit reports (cf. in particular paragraph 29 of CPT/Inf (2002) 28). In the interim, the right of notification of custody should be developed in subsidiary regulations.**

Appropriate action should also be taken to ensure that the right of notification of custody is rendered fully effective in practice, with respect to all categories of persons deprived of their liberty by the police (including administrative detainees).

²⁵ Cf. Article 21 of the Constitution, which also provides that this right "may be restricted only in the cases and pursuant to procedure provided by law to combat a criminal offence or in the interests of ascertaining the truth in a criminal procedure".

²⁶ Cf. Section 11 (1) and also Section 108¹ (5) of the 1961 Code of Criminal Procedure (as amended up to 2003).

38. The right of criminal suspects to have prompt access to a lawyer of their choice, and to confer with him or her, already has a formal basis in the Constitution as well as in the Code of Criminal Procedure.²⁷ The new Code of Criminal Procedure further provides that a suspect has the right to confer with a lawyer in private, and that the latter may be present during interrogation; if necessary, interrogation may be postponed in order to ensure the presence of a lawyer.²⁸ Moreover, it is stipulated that a lawyer "may participate in a criminal proceeding as of the moment when a person acquires the status of a suspect".²⁹

The CPT welcomes the provisions contained in the new Code and **trusts that appropriate steps will be taken to ensure that they are fully complied with in practice. The right of access to a lawyer should be enjoyed by anyone who is under a legal obligation to attend - and stay at - a police establishment. Further, appropriate provision should be made for persons who are not in a position to pay for a lawyer. The CPT suggests that the Bar Association be consulted in this context.**

39. As regards access to a doctor, notwithstanding the recommendations made by the CPT following its 1997 and 1999 visits concerning health care in police arrest houses, the 2003 visit revealed that persons admitted to such establishments were still not benefiting from a thorough medical screening promptly on arrival; this is all the more serious considering the above-mentioned increase of the maximum periods of detention (cf. in this regard paragraph 10).

In many cases, even severely intoxicated persons or those with visible injuries were not receiving appropriate medical attention. Particular mention should be made of the death from alcohol poisoning, one week prior to the delegation's visit, of a man placed in a temporary holding cell at Kohtla-Järve Arrest House. In the CPT's view, if decisive action is not taken, the lack of medical attention - combined with the totally inappropriate material environment prevalent in many police cells - will continue to present a serious danger to vulnerable categories of detainees.

40. Replying to the delegation's end-of-visit observations on health care in police arrest houses, the Estonian authorities indicated:

"Police prefectures have concluded agreements with local family physicians in order to provide preliminary health examinations and health care services. Full-time medical assistants employed by the police also carry out preliminary medical checks in detention centres. At the moment requirements concerning the provision of medical examination are fulfilled in [five arrest houses³⁰]; soon other police prefectures will conclude agreements for the provision of health care services."

²⁷ Cf. Article 21 of the Constitution and Sections 11(1) and 35¹(1) of the 1961 Code of Criminal Procedure (as amended up to 2003).

²⁸ Cf. Sections 33(2) and 34(4) and (5) of the 2003 Code of Criminal Procedure (to enter into force on 1 July 2004).

²⁹ Cf. Section 45(1), read in conjunction with Section 33(1), *ibid.* A suspect is defined as "a person who has been detained on suspicion of a criminal offence, or a person whom there is sufficient ground to suspect of the commission of a criminal offence and who is subject to a procedural act".

³⁰ The Lääne-Viru (Rakvere), Narva, Pärnu, Tallinn and Tartu Arrest Houses.

Obviously, the CPT welcomes the action being taken in this area. **It would like to receive a detailed account of the progress made towards providing proper health care in all police arrest houses.**

The CPT also wishes to reiterate that a doctor must be called without delay whenever a person in police custody requests a medical examination; police officers should not seek to vet such requests (cf. also in this regard paragraph 51 of CPT/Inf (2002) 26).

41. Finally, it must be noted that persons in police custody were still not being given a form to keep, setting out all their rights in a straightforward manner. **The CPT calls upon the Estonian authorities to implement the recommendation it has made repeatedly in the past concerning the provision of written information on rights to all persons deprived of their liberty by the police, at the very outset of their deprivation of liberty** (cf. paragraph 31 of CPT/Inf (2002) 28).

B. Prisons

1. Preliminary remarks

42. Since the CPT's 1999 visit, certain changes affecting Estonian prison establishments have occurred.

In terms of the legal framework, the Imprisonment Act of 2000 has modified the rules applicable to remand and sentenced prisoners; as for the 2001 Penal Act (which entered into force on 1 September 2002), it has led to a decrease in the use of imprisonment for minor offences through the introduction of community service sanctions.

Perhaps even more significant are the changes which have affected or are envisaged for the physical infrastructure of prisons, i.e. the programme of building regional prisons in tandem with the closing of camp-style penal colonies and certain problematic facilities. In this regard, the CPT greatly welcomes the closing of the Central Prison - which has been made possible by the building and entry into service of the new prison at Tartu - and has noted the plans to build a new regional prison at Jõhvi (in Ida-Viru County in eastern Estonia).³¹

43. As a general matter of prison policy, the Estonian authorities have expressed the intention to decrease the role of imprisonment, with the objective of reducing the prison population to 2500 (i.e., by some 2000 inmates) by the year 2015, and the incarceration rate concomitantly from 330 to 200 per 100 000 of the national population. The CPT welcomes those objectives.

44. The delegation paid a brief follow-up visit to Tallinn Prison, focusing mainly on the remand section and the disciplinary block. It also visited the new Tartu Prison as a whole. Finally, it carried out a follow-up visit to the Central Prison Hospital in Tallinn, which continues to be located within the premises of the now-defunct Central Prison.

Tallinn Prison is located in a compound which includes a number of decommissioned workshops and industrial production facilities. The prison's remand blocks have a combined capacity of 650. On 19 September 2003, those blocks were overcrowded; they accommodated 661 persons, including 67 women and one 17-year-old girl.

Tartu Prison, which entered into service in October 2002, is a modern facility located over ten hectares of marshy land in the outskirts of the old university town of Tartu in south-eastern Estonia. The official capacity of the prison is 925 (remand: 575; sentenced: 350). On 19 September 2003, the prison held 894 inmates, 520 of whom were remand prisoners (including 31 women).

On 19 September 2003, the **Central Prison Hospital in Tallinn** (discussed in paragraphs 66 to 70 below) accommodated 101 patients (including four women), for a theoretical capacity of 120.

³¹ The new Ida-Viru Prison is planned to enter into service in 2005; it will be a cell-type facility (as opposed to a camp-style colony) with a capacity of 1000.

2. Ill-treatment

45. No allegations of ill-treatment of inmates by staff were heard at Tallinn Prison or at the Central Prison Hospital. Further, the majority of inmates interviewed at Tartu Prison made no allegations of such treatment.

However, a number of consistent accounts were heard at Tartu Prison - from prisoners interviewed individually - relating to alleged beatings by masked members of a special squad during an intervention in the block for sentenced prisoners in May 2003. According to the allegations received, the special officers - who were armed with machine guns and truncheons - entered the outdoor exercise yards, firing shots in the air, and knocking prisoners to the ground. Special officers were also said to have entered accommodation areas within the block, where they reportedly struck inmates with truncheons and forced them to lie on the floor. The prisoners interviewed claimed that the intervention was carried out as a show of force intended to intimidate them.

After expressing its concern regarding the above-mentioned allegations, the delegation requested the authorities at the end of the visit to ensure that a thorough, impartial, and independent inquiry is carried out into the matter. By letter of 30 October 2003, the authorities indicated that an inquiry had been initiated "in order to find out the exact course of events and to prevent such incidents from happening in the future." The CPT welcomes the swift response by the Estonian authorities and **trusts that it will be informed of the outcome of the inquiry, as well as of any measures taken in response.**

More generally, the CPT considers that the presence of an authority (e.g. senior judicial authorities) which is independent from a particular establishment as well as from any special unit which may be carrying out an intervention, would have a dissuasive effect on anyone minded to ill-treat prisoners and greatly facilitate the investigation of any allegations of ill-treatment and the correct attribution of blame. **The CPT recommends that any future involvement in prisons of a special intervention squad be monitored by such an authority.**

46. The Director of Tallinn Prison informed the delegation that there were two pending criminal investigations against officers of that prison concerning alleged ill-treatment of prisoners. He stated that in the interest of ensuring total objectivity and impartiality, such investigations should be entrusted fully to an authority outside Tallinn Prison.

The CPT agrees that the persons responsible for an investigation, as well as those actually carrying it out, should be independent from those implicated in the events. **It recommends that the Estonian authorities take the necessary steps to ensure that this precept is applied in respect of all investigations into possible ill-treatment by prison officers.**

47. In both prisons visited, the delegation observed that interaction between staff and inmates was rather limited. In this connection, the CPT has repeatedly emphasised that building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation; as well as rendering the work of prison staff far more rewarding, this will have the additional benefit of enhancing control and security in a prison.

48. **The CPT recommends that the Estonian authorities continue to give high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills.**

49. As a positive contrast to the situation observed during the 1997 visit,³² prison officers at Tallinn Prison were not carrying truncheons in full view of inmates in the presence of the delegation. However, a number of remand prisoners in that establishment alleged that officers responsible for certain tasks involving movements of prisoners from one part of the establishment to another - e.g., taking prisoners out for exercise - still carried truncheons openly when carrying out those tasks. **The CPT recommends that steps be taken to ensure that prison officers do not carry batons in full view of inmates.**

50. In order to gain an up-to-date nationwide picture, **the CPT would like to receive the following information for the period from 1 January 2003 to the present time:**

- **the number of complaints lodged of ill-treatment by custodial staff in establishments under the authority of the Ministry of Justice and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by custodial staff.**

3. Material conditions

51. The CPT wishes to underline straight away that the Estonian authorities can be justly proud of the material conditions of detention at **Tartu Prison**; comparing what the CPT found at the Central Prison during its first visit to Estonia in 1997 to what it found at the new prison - in terms of material conditions - is like comparing night and day.

The accommodation of all inmates at the new prison at Tartu is structured on the principle of small living units, comprising a total of 479 double cells and 48 special cells (isolation, waiting and medical quarantine) situated throughout two main rectangular blocks, respectively for remand and sentenced prisoners (the medical department being contiguous to the block for remand prisoners). All cells measured some 10 m² and were equipped with fully partitioned integral sanitation facilities. Access to natural light, ventilation and artificial lighting were satisfactory and, with the exception of the special "restraining cells" (cf. paragraph 79 below), the cells were suitably furnished. The overall impression was that of a thoroughly modern facility.

³² Cf. paragraph 71 of CPT/Inf (2002) 26.

52. As for the *remand section (Blocks 1 and 2)* of **Tallinn Prison**, the transfer of inmates from the now-defunct Central Prison has led to overcrowding and, consequently, to a deterioration of material conditions. At the time of the visit, prisoners were being held six to a cell (in cells measuring 15 or 18 m²), instead of four (as was the case in 1997), and many cells were in a rather dilapidated state; some displayed damage resulting from problems with the plumbing (leakage, damp ceilings and walls, mildew and rust damage).³³

The CPT recommends that the Estonian authorities rapidly devise and vigorously pursue a strategy for reducing the occupancy rates in the remand blocks of Tallinn Prison to no more than four persons per cell, always bearing in mind that the strategy should not have the side effect of transferring a problem from one establishment to another.

Further, in the light of the above remarks, **the CPT recommends that the necessary repairs be carried out to the relevant installations and cells in the remand section at Tallinn Prison.**

53. More generally, the CPT has noted that the average amount of space per remand prisoner in Estonia is 3 m².³⁴ Such an average does not offer a satisfactory amount of living space; **the Committee recommends that the Estonian authorities strive to maintain a standard of at least 4 m² of living space per prisoner in multi-occupancy cells, and that official capacities be calculated accordingly.**

4. Activities

a. remand prisoners

54. A fundamental problem as regards remand prisoners in Estonia is the total lack of out-of-cell activities offered to inmates.

The Imprisonment Act (2000) stipulates that remand prisoners "shall be lodged in locked cells on a twenty-four hour basis", except for one daily hour of outdoor exercise. The sole in-cell diversion allowed is access to "national daily newspapers and books and periodicals stored at the library" which may be supplemented, at the discretion of the prison director, with the use of personal radios or television sets. Nevertheless, something resembling a regime of activities must be offered to minors who have been held in custody for more than a month; the relevant provision stipulates that such persons "shall be allowed to continue to acquire basic education or general secondary education on the basis of a corresponding national curriculum".³⁵

The Imprisonment Act (2000) flatly contradicts the urgent recommendation made in paragraph 80 of the report on the 1997 visit, aimed at radically improving regime activities for remand prisoners. Such a blatant refusal to implement a CPT recommendation is a very serious matter.

³³ Cf. in this regard paragraphs 77 and 79 of CPT/Inf (2002) 26 and paragraph R-35 of the interim response of the Estonian authorities (CPT/Inf (2002) 27).

³⁴ Cf. the Estonian response to question 4(b) of Questionnaire 2 of the Committee of Experts on remand in custody and its implications for the management of penal institutions (document PC-DP (2003) 15).

³⁵ Cf. Sections 90(2) and 93(3), (4) and (5) of the Imprisonment Act (2000).

55. At the time of the visit, remand prisoners were being held for 23 hours a day in their cells. No work or sports activities were offered to those prisoners. The deleterious effects of such a restricted regime were exacerbated by the lengthy periods of time for which persons could be held in remand prisons.³⁶ The only regular out-of-cell activity was a daily hour of outdoor exercise, in areas which - even at the new prison at Tartu, where they measured 15 m² - were not sufficiently large to permit persons to exert themselves physically.³⁷

Remand prisoners did have access to reading material; further, a number of cells had a radio and television. However, watching television and playing board games is no substitute for a proper programme of out-of-cell activities; such a programme is of crucial importance for the physical and psychological well-being of any prisoner, whether sentenced or on remand.

As regards, more particularly, the situation in *Tartu Prison*, one of the most harmful effects of the impoverished regime for remand prisoners held in that establishment was the reduction of human contact to a bare minimum, due to the fact that prisoners were held one or two to a cell and inmates from different cells could never associate. In this regard, the CPT has repeatedly cautioned that the introduction of smaller units for prisoners must under no circumstances be allowed to lead to a generalised system of small-group isolation.

The CPT was pleased to note that the Estonian authorities have expressed agreement with the delegation's end-of-visit remarks concerning the above-mentioned matter.³⁸

56. The CPT recommends that the Estonian authorities take steps, as a matter of urgency, to radically improve the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment must be revised accordingly.

Furthermore, **the CPT recommends that outdoor exercise facilities are made sufficiently large to enable prisoners to exert themselves physically.**

57. It should also be noted that a radio programme tuned to an unpleasantly loud volume was played all day at **Tallinn Prison**, apparently to prevent any communication between inmates placed in neighbouring cells or when using different exercise yards. **The CPT recommends that this practice be discontinued.**

³⁶ Though the average length of time of remand in custody in Estonia is 10 months, this accounts only for the period leading up to the court judgment and does not include the time which may be subsequently spent in a remand prison while waiting for an appeal (cf. the Estonian response to question 18 of Questionnaire 1 by the Committee of Experts on remand in custody and its implications for the management of penal institutions (PC-DP) (2003)). At Tallinn Prison, one prisoner had already spent five years in the remand section.

³⁷ Cf. also paragraph 77 of CPT/Inf (2002) 26.

³⁸ Cf. the letter dated 30 October 2003 by the Estonian Minister of Justice to the President of the CPT.

b. sentenced prisoners

58. At the time of the visit, only some 30 % (112 out of 372) of the sentenced prisoners at **Tartu Prison** worked. Most of the working prisoners (76) were engaged in general services (kitchen support/food distribution, cleaning/maintenance, workshop support, laundry, sewing, hairdressing, canteen, library); the rest (36) were employed by Estonian Prison Industries (a public stock company) as wood- or metal-workers, and their work took place in the prison's bright, modern workshops.

As for educational activities, 52 sentenced prisoners participated in general education classes (taught in Estonian or in Russian) offered by Tartu Adult Upper Secondary School, and 72 took part in vocational education in wood-work, welding and small business enterprise (also taught in Estonian or in Russian) provided by the Tartu Vocational Education Centre. In addition, sentenced prisoners had the possibility of taking computer and language courses (English and Estonian); **the CPT would like to be informed of the number of inmates enrolled in those courses.**

Prisoners enjoyed regular access to well-equipped association areas. Large outdoor sports areas were located in front of the block for sentenced prisoners; further, a sports building with a well-equipped gym and weight-lifting room was available for use three times a week. Football and other games were said to be organised in summer, as well as the occasional sports competition between sections. Further, prison management indicated that several theatre performances and two classical music concerts had been staged at the prison by visiting performers.

To sum up, although sentenced prisoners at Tartu Prison did have an appropriate amount of daily time outside their units, there remained a gap between the aspirations professed by management and staff and the programmes of activities which were actually being delivered to many of them; some 37 % did not benefit from a positive regime which might encourage them to address their offending behaviour. **The CPT recommends that the relevant authorities take the necessary steps to ensure that all prisoners at Tartu Prison have access to an appropriate range of work, educational, sports and recreational activities.**

59. It should also be added that life-sentenced prisoners at Tartu Prison could not associate with any other categories of prisoners. In this connection, the CPT wishes to stress that life-sentenced prisoners are not necessarily more dangerous than other prisoners. Many such prisoners have a long-term interest in a stable and conflict-free environment. Therefore, an approach to the management of life-sentenced prisoners (as indeed to all prisoners) should proceed from individual risk/needs assessment to allow decisions concerning security, including degree of contact with others, to be made on a case-by-case basis. **The CPT recommends that the regime applied to life-sentenced prisoners at Tartu Prison be revised, in the light of the above remarks.**

60. The Ministry of Justice has indicated that two of their objectives (to be achieved by 2006) are to increase the number of working prisoners to 50% of all prisoners who are able to work and, in cooperation with the Ministry of Education, to integrate the general and vocational education of prisoners into the general education system and to increase the number of prisoners studying to 30% of the prison population. The CPT welcomes those initiatives and **invites the Estonian authorities to ensure that remand prisoners are included to the extent possible.**

5. Health care services

61. Health care staff at Tallinn Prison included a Head Doctor (who was also director of the Central Prison Hospital), two other doctors (one of whom had the primary responsibility for medical screening of newly-admitted prisoners), a dentist, and two nurses. Further, a psychiatrist attended the prison twice a week, and there were three psychologists. Such a staffing level is scarcely sufficient to provide adequate health care to some 1000 prisoners. In particular, the nursing staff resources are clearly inadequate. **The CPT recommends that nursing resources at Tallinn Prison be reinforced.**

The situation was somewhat better at Tartu Prison, where the health care team consisted of two doctors, four feldschers, three nursing posts, and a laboratory technician. The prison was attended by a psychiatrist, a dentist, and a radiologist three days a week, as well as by a gynaecologist one day per week. In addition, there were four psychologists.

Apparently, there were six vacant posts for health care staff at Tartu; **the CPT would like to be informed which of those posts have been filled.**

62. The standard of health care facilities was excellent at *Tartu*, and generally satisfactory at *Tallinn*.

The delegation was informed that in the context of an ongoing improvement programme of the health care facilities at Tallinn, an on-site HIV laboratory and X-ray facilities have been added.

As for Tartu, the medical facility extended over two storeys of a building connected to the remand block, with the clinical area on the first floor and the patient accommodation rooms on the ground floor. In addition to various consultation rooms, the clinical area included a procedure room, an X-ray and ultrasound suite, a pharmacy preparation room, a laboratory, and a patient waiting area. The premises were spacious and bright and the equipment was brand-new.

63. Medical screening of newly-arrived prisoners was systematically taking place at both establishments within 24 hours of arrival; further, incoming prisoners at *Tallinn Prison* were also being screened by a psychiatrist.

64. In its 1997 visit report, the CPT made a detailed recommendation, in the interests of prevention of ill-treatment, concerning records which must be drawn up following a medical examination of a newly-arrived prisoner (or a prisoner transferred or returning to an establishment) or a prisoner examined following a violent incident in prison. In their response to that report, the Estonian authorities indicated that "[a]ll injuries will be accurately recorded both in the medical file and in an additional separate injuries file to which investigative bodies have access.³⁹

³⁹ Cf. in this regard paragraphs 93 to 95 of CPT/Inf (2002) 26 read together with paragraph R-42 of the interim response of the Estonian authorities (CPT/Inf (2002) 27).

The information gathered during the 2003 visit indicated that, although objective medical findings relating to injuries were being recorded, they were not always accompanied by an account of the statements made by the persons concerned which are relevant to the medical examination. In particular, medical records frequently failed to note the prisoner's account of the origin of those injuries (or to note if the person concerned had refused to reply to the relevant questions asked by the doctor) as well as the doctor's conclusions in the light of the objective findings and the prisoner's account. In fact, the doctor responsible for screening at Tallinn Prison indicated that he did not consider it his duty to ask such questions unless an injury occurred within the prison itself.

The CPT reiterates its recommendation that the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, contain:

- (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;**
- (ii) a full account of objective medical findings based on a thorough examination;**
- (iii) the doctor's conclusions in the light of (i) and (ii); these conclusions should be made available to the prisoner and his/her lawyer.**

Moreover, **the CPT recommends that existing procedures be reviewed in order to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record is brought to the attention of the relevant public prosecutor.**

65. Medical examinations of prisoners at Tartu were taking place in the presence of prison officers, in contravention of the principles of medical confidentiality. **The CPT recommends that medical examinations of prisoners be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.**

Further, in the light of information gathered during the visit, **the CPT would also like to receive confirmation that prisoners are examined on an individual basis at Tallinn Prison, and not in the presence of other inmates.**

6. Central Prison Hospital, Tallinn

66. The problem of overcrowding at the Central Prison Hospital had been resolved with the closure of the Central Prison.⁴⁰ However, in all other respects, the hospital's material conditions - which were the subject of the CPT's principal criticism of the establishment in the report on its 1997 visit⁴¹ - had actually deteriorated.

Given the hospital's severely dilapidated state, it remained practically impossible to maintain even a minimum level of hygiene in the premises. As regards personal hygiene, not even the most basic products (e.g. soap, toilet paper) were provided free of charge. In addition, a number of cells did not have access to natural light, since the windows had been covered with metal plates, and the delegation heard allegations (confirmed by staff) that heating was inadequate in winter. Moreover, all patients (except those suffering from tuberculosis) were locked up in their cells for 24 hours per day, without even being offered any outdoor exercise, which was exactly the situation found in 1997.

⁴⁰ Cf. also paragraph 42 above.

⁴¹ Cf. in this regard paragraphs 103 to 109 of CPT/Inf (2002) 26.

67. The only activities generally available to patients were reading and playing board games inside the cells; very few prisoners had access to radio or television. Access of health care staff to patients remained hampered by the lack of a call system and the fact that patients' cells had to be unlocked by prison officers. As for psychiatric patients, their treatment continued to be limited to pharmacotherapy.

68. As already mentioned (cf. paragraph 7), at the end-of-visit talks on 30 September 2003, the delegation made an immediate observation concerning the Central Prison Hospital, requesting that:

- (i) all patients, whose health permits, be offered at least one hour of outdoor exercise per day; and that
- (ii) metal plates be removed from the windows of cells accommodating patients.

At the end-of-visit talks, the delegation also drew attention to the precarious situation of the hospital's only female patient with tuberculosis, who had been held in a regime akin to solitary confinement since May 2003, and asked that steps be taken to offer her a wider range of diversions (e.g. access to a radio and/or television).

In response to the above-mentioned immediate observation, the Estonian authorities confirmed that they have complied with the delegation's requests concerning outdoor exercise and the removal of the metal plates; further, they indicated that the woman with tuberculosis has been offered the possibility to participate in social programmes and to have a radio.

69. The CPT welcomes the response of the Estonian authorities to its immediate observation. However, it was deeply concerned to learn that plans to build a new prison hospital have been delayed.⁴² The Estonian authorities must be unwavering in their efforts to withdraw the Central Prison Hospital from service at the earliest possible opportunity; the premises are inherently unsuitable for use as a hospital.

70. **The CPT calls upon the Estonian authorities to attach a very high priority to finding a suitable alternative to the Central Prison Hospital, which should enable it to be closed.**

In the interim, **the CPT recommends that steps be taken to:**

- **offer organised activities to all patients at the Central Prison Hospital;**
- **guarantee ready access of health care staff to patients at all times;**
- **develop psycho-social therapeutic activities for psychiatric patients and adapt them to the individual needs of each of those patients.**

⁴² The authorities have indicated that "the process, starting from detailed planning which takes about two years, must be [re-]started from the beginning" (cf. the letter dated 30 October 2003 of the Estonian Minister of Justice to the President of the CPT).

7. Other issues

a. contact with the outside world

71. The right of *remand prisoners* to receive short-term visits from family members or other persons is governed by Section 94 of the Imprisonment Act (2000). The law stipulates that such visits must take place in the presence of prison staff, but does not specify their frequency and duration; instead, it is stipulated that such matters are to be determined by the internal rules of each prison. The Estonian authorities have indicated that in practice, remand prisoners are granted at least one hour-long visit per month. In the CPT's view, this is not sufficient to permit persons on remand to maintain appropriate contact with the outside world.

The CPT recommends that uniform regulations be established for all prisons on the question of the frequency and duration of visits to remand prisoners by family members or other persons. The objective should be to offer the equivalent of a visit every week, of at least 30 minutes duration.

Further, **the CPT wishes to stress the need for a certain flexibility when applying the rules on visits to prisoners whose families have difficulties making regular visits. For example, such prisoners could be authorised to combine several visit entitlements into one longer session.**

72. Remand prisoners may be denied regular visits from family members by the director of a prison with the permission of a preliminary investigator, prosecutor or court "if this is necessary to ensure the conduct of the criminal proceedings"; apparently, denial of visits affects some 6 % of the remand prison population.⁴³

No restrictions may be made on the right to receive visits by a lawyer; further, in the context of such visits, prison officers must not be within hearing distance.⁴⁴

73. According to the Imprisonment Act (2000), *sentenced prisoners* have the right to receive at least one supervised visit, with a duration up to three hours, once a month. In addition, prisoners may be granted unsupervised long-term visits for a period from one to three days and, if they have served at least one year of their sentence, 21 days annual home leave.⁴⁵

The CPT welcomes the visiting and leave arrangements for sentenced prisoners in Estonia, which are conducive to the social rehabilitation of a prisoner.

⁴³ Cf. the Estonian response to question 11 of Questionnaire 2 by the Committee of Experts on remand in custody and its implications for the management of penal institutions (PC-DP (2003) 15).

⁴⁴ Cf. Section 95(1) of the Imprisonment Act (2000).

⁴⁵ Cf. Sections 24, 25 and 32, *ibid.*

74. Several complaints were heard from *remand prisoners* regarding arrangements for telephone contacts. In both prisons visited, the practice was for officers to bring a telephone on a trolley in front of the door of a particular cell, and to pass the telephone receiver through the hatch normally used for food distribution; the person would then be obliged to speak in the presence of his or her cellmates. Following a number of complaints received on the subject by remand prisoners from Tallinn Prison, the Legal Chancellor proposed that an effective procedure be established to ensure confidentiality of telephone conversations. **The CPT would like to be informed of the action taken following the proposal made by the Legal Chancellor.**

75. As regards correspondence, the CPT has noted that the Legal Chancellor has proposed that the Ministry of Justice establish uniform regulations to be applied in all prisons. **The CPT would like to be informed of the action taken in this area, as well as to receive a copy of any new regulations.**

b. discipline, segregation, and means of restraint

76. *Remand prisoners* who commit violations against prison discipline may be punished with a reprimand, a fine, and/or placement in a punishment cell for up to 30 days (adults) or 15 days (minors).⁴⁶

Sentenced prisoners may be punished with a reprimand, suspension of visits, removal from work, and/or placement in a punishment cell for up to 45 days (adults) or 20 days (minors).⁴⁷

As regards disciplinary procedures, the delegation noted that prisoners were informed of the disciplinary offence of which they had been accused, and had the right to make statements.⁴⁸ However, a number of prisoners indicated that they had not been informed of the modalities of lodging an appeal. **The CPT wishes to receive confirmation that prisoners have the formal right to appeal to a higher authority against any sanctions imposed on them. Further, steps should be taken to ensure that the prisoners concerned are given a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues/deadlines for lodging an appeal.**

77. Any prisoner (remand or sentenced) who repeatedly violates prison regulations or poses a serious threat to security may be segregated in an isolation cell until the circumstances which led to such placement "cease to exist".⁴⁹ Further, means of restraint (tying, handcuffing, or the use of a restraint jacket) may be applied to such prisoners for a period not exceeding 12 hours.⁵⁰

The CPT would like to be informed of the procedural safeguards applicable in such cases (right to be heard, right to appeal to a higher authority, etc.).

⁴⁶ Cf. Section 100, *ibid.*

⁴⁷ Cf. Section 63, *ibid.*

⁴⁸ Cf. Section 64(2), *ibid.*

⁴⁹ A remand prisoner may also be isolated from other inmates if there is sufficient reason to believe that his or her behaviour may adversely affect the conduct of criminal proceedings; the duration of such isolation is determined by the preliminary investigator, prosecutor, or court (cf. Section 102 of the Imprisonment Act (2000)).

⁵⁰ Cf. Sections 63, 69, 70 and 103 of the Imprisonment Act (2000).

78. As the time of the visit, the material conditions in the disciplinary block in Tallinn Prison were totally unacceptable, the cells displaying a state of repair identical to that of the worst of the arrest house cells (cf. paragraph 26 above). The Estonian authorities have since indicated that the renovation work which had been initiated in the disciplinary block has been completed; the CPT welcomes this development.

The cells used for disciplinary purposes at Tartu Prison were, on the whole, of an adequate standard.

79. The conditions under which prisoners could be physically restrained in the special "restraining cells" at Tartu Prison were totally unacceptable. Those cells were equipped only with a concrete platform raised some 10 cm from the floor, fitted with four metal rings anchored to its sides, in order to secure a person hand and foot while lying spread-eagled on the back. Handcuffs and ankle belts were available for this purpose. The restraining cells were also used for disciplinary punishment, i.e. persons could be placed in them without being restrained.

As already mentioned (cf. paragraph 7), at the end-of-visit talks on 30 September 2003, the delegation made an immediate observation concerning the above-mentioned cells and requested the Estonian authorities to remove immediately the four metal rings and to ensure that four-point restraint using metal cuffs to immobilise a detainee is never used.

In response to the above-mentioned immediate observation, the Estonian authorities confirmed that they have complied with the foregoing requests. The CPT welcomes the swift action taken by those authorities;⁵¹ nevertheless, it wishes to stress that even without the metal rings, **the special cells at Tartu Prison are not suited for disciplinary use, given that they lack furniture.**

80. More generally, an examination of the relevant records revealed that, at Tartu Prison, means of restraint were used with alarming frequency;⁵² they were also applied for prolonged periods - up to the maximum of 12 hours - during which time persons thus restrained were allegedly not permitted to use the lavatory. Further, it was clear that means of restraint were applied on occasion as a disciplinary punishment (e.g. for "refusal to enter the cell" or "use of dirty language").

The CPT considers that resort to instruments of physical restraint will only very rarely be justified. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should be never applied, or their application prolonged, as a punishment. Further, in cases where a prisoner is, or becomes, highly agitated, prison staff should immediately contact a doctor and act in accordance with his or her opinion, rather than shackling the person concerned to furniture or fixtures.

The Committee recommends that steps be taken to ensure that the foregoing precepts are strictly observed in practice.

81. In light of the information gathered at both prisons visited, the CPT recommends that all persons placed in a disciplinary cell be allowed access to reading matter, which should not be limited to prison regulations and the Bible.

⁵¹ Cf. the letter dated 30 October 2003 of the Estonian Minister of Justice to the President of the CPT.

⁵² The number of cases of use of means of restraint at Tartu Prison in one month was approximately equivalent to the number of such cases at Tallinn Prison over an eight-month period.

c. complaints and inspection procedures

82. Under the Imprisonment Act (2000), prisoners may address letters on a confidential basis to their lawyer, the prosecutor, the court, the Legal Chancellor or the Ministry of Justice.⁵³

However, a number of prisoners at the establishments visited alleged that they lacked information as to the manner in which they could lodge a complaint; further, several alleged that their complaints had not met with any response, or had been delayed, leading them to speculate that prison officers were screening their complaints.

The CPT recommends that the relevant authorities ensure that all prisoners (both remand and sentenced), throughout the penitentiary system, are provided with precise written information on the avenues of complaint available to them; if necessary, prisoners should also be supplied with writing materials. Further, practical measures should be taken to ensure that complaints can be transmitted confidentially (e.g. by providing locked complaint boxes accessible to prisoners, to be opened only by specially designated persons).

83. In the report on its 1997 visit, the CPT stressed the importance it attached to regular visits to prison establishments by an independent body.⁵⁴ In this connection, the CPT has noted with great interest the provisions of Section 108 of the Imprisonment Act, which provides for a system of prison committees operating at each establishment and made up of members of the public. As far as the delegation could ascertain, this system was not yet operative in September 2003.⁵⁵ **The CPT would like to receive the comments of the Estonian authorities on this subject.**

84. A further supervisory mechanism may be found in the Office of the Legal Chancellor, whose work appears to have had a positive impact (cf. paragraphs 14, 26, 74 and 75 above for illustrations of the Chancellor's work in relation to prisons as well as police). **The CPT trusts that the Legal Chancellor will continue to maintain a proactive role in the prevention of ill-treatment of prisoners.**

⁵³ Cf. Section 29(4) of the Imprisonment Act (2000).

⁵⁴ Cf. paragraph 125 of CPT/Inf (2002) 26.

⁵⁵ Cf. Section 108 of the Imprisonment Act (2000).

C. Psychiatric establishments

1. Preliminary remarks

85. The delegation visited Ahtme Psychiatric Hospital and Kernu Social Welfare Home. The former was transformed from a State run institution into a non-profit foundation (supervised by the Ministry of Social Affairs) at the beginning of 2003, while the latter is administered by the Ministry of Social Affairs.

86. **Ahtme Psychiatric Hospital** was built on the premises of a former school-house in the village of Ahtme (located near Kohtla-Järve). In 1980, the hospital was separated from the general district hospital and became an independent institution. It provides in-patient services for a wide variety of patients with different diagnoses and needs from north-east Estonia. Involuntary and voluntary patients were accommodated together in both open and closed units. The number of admissions/discharges per week was about 30, with an average length of stay of 20 days (which is the maximum duration of full payment by the Sickness Benefit Fund).

The hospital had an official capacity of 77 beds. However, due to limited funding by the Sickness Benefit Fund, the actual capacity was reduced to 47 beds (an entire ward with 30 beds was temporarily taken out of service). At the time of the visit, it was accommodating 40 in-patients, two of them involuntary. Fifteen patients were accommodated in the closed unit (acute ward) and 25 in the open unit.

At Ahtme, the only involuntary patients who could be admitted were persons subject to a civil placement. Conditions for such placement are set out in Section 11 of the Mental Health Act (1997), which stipulates that persons may only be admitted to the psychiatric department of a hospital or subjected to treatment without the consent of the person or his or her legal representative if: (1) the person has a severe mental disorder which restricts his or her ability to understand or control his or her behaviour, (2) without in-patient treatment, the person endangers the life, health or safety of himself or herself or others due to a mental disorder, and (3) other psychiatric care is not sufficient.

87. **Kernu Social Welfare Home** opened in 1946 on the premises of a former manor house (built some 200 years ago) in the village of Kernu, some 35 km south of Tallinn. The establishment comprises two buildings, on a 22-hectare area, which was also used for various agricultural activities. It mainly serves as a long-term residential care institution for male and female residents with severe learning and/or physical disabilities. In the main building (the former manor house), there was one closed intensive care unit for female residents only and separate open units for female and male residents. A second building, constructed in recent years, accommodated more autonomous residents.

At the time of the visit, the establishment was operating at its full capacity with 88 residents (68 female and 20 male). The closed unit was accommodating 22 female residents (official capacity: 20). Most residents were staying at the establishment on a long-term basis (some since the opening of the home in 1946). The annual turnover was rather low (7 admissions in 2002 and 4 in 2003).

As regards the legal basis for involuntary placement in social welfare homes, cf. paragraph 115.

2. Ill-treatment

88. The delegation heard no allegations of *ill-treatment by staff* - and gathered no other evidence of such treatment - of patients/residents at Ahtme Psychiatric Hospital and the Kernu Social Welfare Home. The atmosphere in the two institutions was on the whole relaxed, and staff-patient/resident relations were good. The CPT wishes to place on record the professionalism and commitment demonstrated by the medical and nursing staff towards their patients/residents.

89. Nevertheless, the CPT is seriously concerned about the level of *violence among residents* at Kernu Social Welfare Home. The delegation received numerous allegations of verbal and physical assaults of residents by fellow-residents. Several female residents claimed that they had been persistently “terrorised” and beaten by a group of male residents and that they were living in permanent fear of such assaults. The delegation itself witnessed an incident in which a female resident was hit by a male resident, without an appropriate intervention of a member of staff who was present at the time. The victim concerned sustained a haematoma on the face and upper lip.

The CPT recommends that urgent steps be taken at Kernu Social Welfare Home to review the management of aggressive/violent residents. For this purpose, a specific policy should be elaborated and implemented in practice, aimed at reducing the risk of inter-resident violence.

Further, **the Committee recommends that all staff members be reminded that they have a duty to ensure the safety and physical integrity of residents and to protect them from other residents who might wish to cause them harm.**

3. Patients'/residents' living conditions

90. In any psychiatric/social welfare establishment, the aim should be to offer living conditions which are conducive to the treatment and well-being of patients/residents; in terms of rehabilitation, a positive therapeutic environment. Creating such an environment involves, first of all, providing sufficient living space per person as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements. Particular attention should also be given to the decoration of both patients'/residents' rooms and recreation areas, in order to offer patients/residents a stimulating therapeutic environment.

91. The living conditions in Ahtme Psychiatric Hospital were overall of a good standard. Throughout the establishment, patient accommodation was impeccably clean, well-lit and ventilated. Patients were accommodated in spacious rooms with two to four beds and had ready access to sanitary facilities, which were in a good state of repair and cleanliness. No signs of poor bodily hygiene were found. Further, patients were allowed to wear their own clothes, and indigent patients were provided with non-uniform garments.

However, some complaints were heard about insufficient heating (in particular, at night). Further, in some rooms patients had no lockable space to store their personal belongings. **The CPT invites the Estonian authorities to remedy these deficiencies.**

92. Throughout the establishment, patients had access to pleasantly-decorated communal rooms, which were equipped with tables, chairs, a television set and board-games. Patients on the open ward went for walks in the open air. However, due to the lack of a secure outdoor exercise area, not all patients in the closed unit were allowed to have access to the open air.

The CPT recommends that immediate steps be taken at Ahtme Psychiatric Hospital to ensure that all patients whose state of health permits are offered at least one hour of outdoor exercise per day.

93. At the Kernu Social Welfare Home, the majority of residents were accommodated in two- to six-bed rooms of adequate size (at least 5 m² per person). The main building had a number of structural deficiencies (e.g. steep and narrow stairs), which could hardly be remedied. At the time of the visit, it was undergoing extensive renovation work, which was already well advanced. In all renovated parts (including the entire closed unit), the living conditions were of a good standard. Rooms were well lit and ventilated, with new furniture (beds, bedside tables, chairs, shelves/cupboards) and personalised decoration. Hygienic conditions were very good. In addition, the living conditions in the adjacent building for residents with less severe learning disabilities were overall of a high standard.

By contrast, the rooms in the main building which had not yet been renovated were in a poor state of repair. **The CPT would like to receive detailed information on the progress made in the renovation work.**

Further, in a number of rooms (in both buildings) residents had no lockable space to store their personal belongings. **The CPT invites the Estonian authorities to remedy this deficiency.**

94. Each unit had a communal/dinning room which was pleasantly decorated and used for occupational and social activities. Further, all residents whose physical condition permitted were taken out every day for walks or in wheelchairs (for one to two hours).

4. Staff and treatment

95. At Ahtme Psychiatric Hospital, the health care staff included six full-time posts of psychiatrists, 20 qualified nurses (including one half-time) and 25 nursing assistants (including one half-time). In addition, three psychologists (one full-time and two part-time) were employed at the hospital. Given the significant decrease in the number of patients over the past years, the health care staffing levels can be considered as very good. Consultations with a general practitioner and various specialist doctors were arranged at the local general hospital.

96. The delegation's discussions with patients and staff, as well as the consultation of medical records, showed that patients received individualised, mainly pharmacotherapy-based, treatment appropriate to their condition. Modern psychotropic drugs were available, and no signs of overmedication were observed. Prescribed medication was frequently reviewed, and medical files were well kept.

In addition, the establishment offered various rehabilitative and therapeutic activities (e.g. psychotherapy, occupational therapy, etc.). In order to foster social re-integration, patients in the open unit were offered leave on weekends, in order to stay with their families in the outside community. This is a commendable practice.

The delegation was informed about preliminary plans to create a special nursing care section for patients who are no longer in need of in-patient medical care, but who cannot live on their own and cannot be accommodated in the outside community. **The CPT would like to receive more detailed information on this matter.**

97. As already emphasised in the CPT's report on the 1997 visit⁵⁶, patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as automatically authorising treatment without his/her consent. Every competent patient, *whether voluntary or involuntary*, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

In their interim response to the report on the 1997 visit⁵⁷, the Estonian authorities indicated that detailed guidelines and a special form concerning the requirement of informed consent of patients had been elaborated. During the 2003 visit, however, it emerged that no such guidelines/form were in use at Ahtme Psychiatric Hospital.

The CPT recommends that steps be taken at Ahtme Psychiatric Hospital (as well as in other psychiatric establishments in Estonia) to ensure that all competent patients are placed in the position to give their informed consent to treatment in writing. For this purpose, they should be systematically provided with relevant information about their condition and the treatment prescribed for them (side effects, duration, etc.). Relevant information should also be provided to patients following treatment (results, etc.).

98. At Kernu Social Welfare Home, staff involved in residents' care consisted of five qualified nurses (full-time) and 15 nursing assistants (most of whom worked part-time). During day-shifts, two nurses and two nursing assistants were usually present; during night-shifts and weekends, there was only one nurse and one nursing assistant.

Until May 2003, a doctor providing both physical and psychiatric care attended the establishment three days per week for six hours per day. This doctor had undertaken quarterly checks on residents' physical and mental health and a full review annually. In addition, an X-ray was carried out once per year. However, according to the new public health policy of the Ministry of Social Affairs, regular visits by a general practitioner/psychiatrist were discontinued after the retirement of the above-mentioned doctor in May 2003. Consequently, residents with a physical problem had to be brought to the local general practitioner in the outside community. Equally, if patients needed a psychiatric consultation, they were taken to Tallinn Psychiatric Hospital.

⁵⁶ Cf. paragraph 159 of doc. CPT/Inf (2002) 26.

⁵⁷ Cf. page 51 of doc. CPT/Inf (2002) 27.

In practice, newly-arrived residents were no longer subject to an automatic medical examination upon admission, and X-ray screening was no longer conducted on a regular basis. Further, the establishment was not attended by a psychologist or physiotherapist.

99. In the CPT's view, the current staff arrangements are clearly insufficient to provide appropriate somatic and psychiatric care for residents with considerable needs at Kernu Social Welfare Home. The lack of specific rehabilitation services, such as psychology or physiotherapy, was particularly striking. The CPT is also concerned by the overall low number of nursing staff present in the various units, including on those with the most disturbed and/or physically handicapped residents; such low staffing levels are not conducive to appropriate care and supervision of residents and tend to generate highly stressful work conditions. This state of affairs is clearly directly related to the level of violence among residents (cf. paragraph 89). Further, members of the nursing staff with whom the delegation spoke took the view that nursing assistants would benefit from specific training in dealing with the categories of residents cared for at the establishment.

100. In the light of the preceding remarks, **the CPT recommends that steps be taken at Kernu Social Welfare Home to ensure that:**

- **the nursing staff presence, especially at night and on weekends, is reviewed; this will almost certainly require increasing the overall complement of such staff;**
- **specialised training is provided for nursing assistants in dealing with residents with severe learning disabilities;**
- **the establishment is visited by a general practitioner and a psychiatrist at least once per week;**
- **every resident is subject to a medical examination promptly upon admission;**
- **rehabilitative services (psychology, physiotherapy, etc.) are provided.**

101. As regards pharmacotherapeutic treatment, medication prescribed by doctors was systematically administered by qualified nurses. The delegation found no evidence of excessive use of psychoactive medication. Further, a range of occupational and recreational activities (drawing and sewing workshops, work in the vegetable garden, etc.) were available at the establishment.

102. However, the delegation observed that medical files were accessible to non-medical staff and that medical information was also contained in administrative files. **The CPT recommends that steps be taken to ensure that the confidentiality of medical data is fully respected.**

5. Restraint of agitated and/or violent patients/residents

103. In any psychiatric/social welfare establishment, the restraint of agitated and/or violent patients/residents may on occasion be necessary. However, this is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

It is essential that the restraint of patients/residents be the subject of a clearly-defined policy. That policy should make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (*e.g.* verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control.

Resort to instruments of physical restraint (straps, straight jackets, *etc.*) will only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment.

Further, every instance of the physical restraint of a patient/resident (manual control, use of instruments of physical restraint, seclusion) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

104. Ahtme Psychiatric Hospital had two observation rooms (each with two beds) for the seclusion and/or physical restraint of patients (four-point fixation to the bed with cloth straps). Both rooms were permanently monitored by nurses from the adjacent treatment room, through a glass panel.

The hospital had no written policy on the management of agitated/violent patients. In practice, the use of means of restraint was always authorised first by a doctor, the patient's own or a duty doctor. Every instance of the use of means of restraint or placement of a patient in an observation room was recorded in the patient's file and the nurses' log book. However, these records were not always complete (for instance, some files lacked information on the precise duration of the application of such a measure). No special register was kept of the use of means of restraint and seclusion.

105. Kernu Social Welfare Home also lacked a written policy on the management of agitated/violent residents. In practice, the initiative of applying means of restraint was taken by the nurse on duty. Depending on the level of agitation, resort was had to the following means: manual control, forced injection of sedatives and (very rarely, pending the transfer of the resident to a psychiatric hospital) a straitjacket. There was no special seclusion room.

For some residents, the use of specific means of restraint had been ordered by a psychiatrist in advance, in the event of their becoming agitated. In other cases the nurse on duty consulted a psychiatrist (usually at Tallinn Psychiatric Hospital) over the telephone, who then gave precise instructions (in particular, the dose of sedating medication). The use of physical force was registered in the duty journal and the Director of the establishment had to be informed of such incidents. However, there was no dedicated register of the use of means of restraint.

Staff had not received special training on how to handle violent/aggressive residents. Several members of staff emphasised that, on several occasions, they had been unable to bring violent/aggressive male residents under control as there were no male staff employed at the establishment. They reported that they had to ask other residents to assist in restraining by physical force the person concerned. In some cases, any attempt to restrain violent/aggressive residents who were attacking fellow residents had failed, until the arrival of the ambulance or the police.

106. The CPT recommends that a written policy on the use of means of restraint and seclusion be established both at Ahtme Psychiatric Hospital and Kernu Social Welfare Home and that steps be taken to ensure that the procedures followed in this connection are brought into line with the requirements set out in paragraph 103.

Further, appropriate measures should be taken to avoid involving residents in the restraint of a fellow-resident. Resolving episodes of acutely disturbed behaviour should be the exclusive responsibility of staff; ensuring that this is the case will require increasing the staff presence (cf. paragraph 100).

6. Safeguards

107. On account of their vulnerability, persons suffering from mental illness and/or learning disabilities warrant particular attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment should always be surrounded by appropriate safeguards.

- a. initial placement and discharge procedures

108. The procedure by which involuntary placement in a psychiatric/social welfare establishment is decided should offer guarantees of independence and impartiality as well as of objective psychiatric expertise. Further, such placement should cease as soon as it is no longer required by the patient's/resident's mental state. Consequently, the need for placement should be reviewed by an appropriate authority at regular intervals. In addition, the patient/resident himself/herself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

109. As regards involuntary placement in a psychiatric hospital, the Mental Health Act (MHA)⁵⁸ only deals with the emergency admission of mental patients (cf. paragraph 110). A procedure outside emergency situations, whereby a mental patient could be hospitalised against his/her will, is apparently not provided for.

The CPT would like to know whether it is intended to make provision for such a procedure in the context of the ongoing reform of the Estonian mental health legislation.

110. Pursuant to the relevant provisions of the MHA, persons with mental disorders receive psychiatric care on a voluntary basis, or, at the request of emergency medical staff, the police, persons close to them or other persons, on an involuntary basis.

According to the information gathered by the delegation at Ahtme Psychiatric Hospital, involuntary admissions were reviewed within 48 hours by two psychiatrists, who could then prolong involuntary placement for up to 14 days. In most cases, the written decision on the prolongation was reasoned, in accordance with the requirements set out in Section 11 of the MHA. The contents were orally explained to the patient by the treating doctor, and a copy was put into the individual file of the patient. However, the patient concerned did not receive a copy of the decision.

Patients had, theoretically, the right to appeal the latter decision before the Administrative Court; however, they were not informed of such a possibility. In addition, the information gathered by the delegation would suggest that patients ran a risk of being charged high court fees in the event of their appeal being rejected, a state of affairs which evidently had a considerable deterrent effect. Not surprisingly, appeals were in practice never lodged.

111. Prolongation of involuntary placement beyond the 14-day deadline was only possible with the authorisation of the competent administrative court, following a written request made by the chief doctor of the hospital. However, the examination of individual patients' files at Ahtme Psychiatric Hospital revealed that the entire court procedure (including the decision on the prolongation of the hospitalisation for 30 or 90 days) had been extremely perfunctory.

Moreover, the delegation observed a number of deficiencies in the procedures followed, which resulted, to a large extent, from the relevant provisions of the MHA. The whole procedure was only carried out in writing. No independent psychiatric expertise was sought by the court, and the patient concerned was not heard in person. Further, although the written decision contained a reference to the possibility to lodge an appeal, the deadline for the appeal was not stated. In addition, the court decision was only delivered to the hospital, and the patient concerned did not even receive a copy of it. The delegation was however told that patients were usually informed orally about the contents of the decision by the treating doctor.

⁵⁸ Cf. Sections 11 to 13 of the MHA.

112. Pursuant to Section 12, paragraph 4, of the MHA, upon admission to a psychiatric hospital, involuntary patients are only allowed “to meet *briefly*⁵⁹ a close relative, the legal representative or a physician or lawyer of their choice”.

At Ahtme Psychiatric Hospital, the delegation received no complaints that time restrictions on such visits had been imposed. However, the CPT wishes to emphasise the importance of the fundamental right of all persons deprived of their liberty - including persons admitted involuntarily to a psychiatric hospital - to have unrestricted and unlimited access to their legal representative as well as to a lawyer of their choice.

113. As regards discharge procedures, involuntary patients may be released from a *psychiatric hospital* by an administrative court decision, following a request made by the spouse, legal representative or a close relative.⁶⁰ However, it appeared that Estonian legislation does not explicitly allow involuntary patients themselves to request a judicial review during their placement.

114. The CPT recommends that the Estonian authorities review the procedures for involuntary placement in psychiatric hospitals, in the light of the remarks made in paragraphs 107 to 113.

More particularly, **steps should be taken to ensure that:**

- **involuntary placement procedures in psychiatric hospitals offer guarantees of independence and impartiality, as well as of objective psychiatric expertise; more specifically, a court should seek an opinion from a psychiatrist outside the hospital concerned before deciding whether to prolong an involuntary placement beyond 14 days;**
- **patients who are admitted to a psychiatric hospital on an involuntary basis have the right to be heard in person by the court during placement/appeal procedures;**
- **the patient concerned is notified in writing of any decision on involuntary placement in a psychiatric hospital, informed about the reasons for the decision and the avenues/deadlines for lodging an appeal, and granted unlimited and unrestricted access to his/her legal representative/lawyer;**
- **indigent patients benefit from free legal representation and are exempted from court fees incurred in the context of judicial appeal/review procedures;**
- **patients themselves are able to request at reasonable intervals that the necessity for their placement be considered by a judicial authority.**

⁵⁹ Emphasis added.

⁶⁰ Cf. Section 13, paragraph 6, of the MHA.

115. Persons may be admitted to a social welfare home, upon their request or that of their legal representative/guardian, or by a decision of the competent civil court.⁶¹

According to Section 19 of the Social Welfare Act, the following criteria must be met before the civil court may pronounce a decision on involuntary admission in a social welfare home: (1) the person concerned must be of unsound mind or an alcohol or a drug addict; and (2) pose a danger to him/herself or to others unless placed in a social welfare institution; and (3) the application of less restrictive measures has not been sufficient or the use of other measures is not possible. The court may, together with the decision on the placement, appoint a guardian. The placement measure is valid for up to one year and may be extended for periods not exceeding one year at a time. Current legislation does not require that the person concerned is involved in the judicial placement procedure.

116. The examination of a number of individual residents' files at Kernu Social Welfare Home showed that the residents had been deprived of their legal capacity and subsequently placed in the home at the request of their guardian or had been placed there by court order, without ever having been heard in person by a judge. During judicial placement procedures, courts had not appointed legal representatives *ex officio*. Further, the residents concerned had not even received a copy of the relevant court decisions. Several residents also claimed that they had never been informed about possibilities of challenging such decisions.

117. The need for continued placement by court order in a *social welfare home* is automatically reviewed in the context of the procedure on extension of such placement (upon expiry of the preceding placement order). However, as far as the delegation could ascertain, neither the resident concerned nor his/her guardian are entitled to request a judicial review of an ongoing involuntary placement.

As regards residents who had been admitted on an involuntary basis to Kernu Social Welfare Home before the entry into force of the 2002 amendment to the Social Welfare Act, the delegation was informed by the Director of the establishment that several cases had recently been notified to the court, in order to initiate proceedings to appoint a guardian and issue an involuntary placement order.⁶²

118. It should be added that the legal status of many residents at the Kernu Social Welfare Home was unclear to staff, including the management. As a consequence, instances occurred when residents who were *de iure* staying at the establishment as voluntary residents were prevented from leaving (for their own protection), without an involuntary placement procedure being initiated.

⁶¹ The involvement of civil courts in such procedures was introduced by an amendment to the Social Welfare Act in 2002.

⁶² Prior to 2002, residents were admitted to the social welfare home by an expert commission subordinated to the Ministry of Social Affairs. Their placement was only subject to a regular review until 1987 (by a commission of psychiatrists).

119. **The CPT recommends that the Estonian authorities take steps to ensure that:**

- **residents who are placed in a social welfare home on an involuntary basis by court decision have the right to be heard in person during placement/appeal procedures;**
- **the resident concerned is notified in writing of decisions on involuntary placement in a social welfare home, informed about the reasons for the decision and the avenues/deadlines for lodging an appeal;**
- **residents and/or their guardian are able to request at reasonable intervals that the necessity for placement be considered by a judicial authority;**
- **all cases of involuntary admission to Kernu Social Welfare Home prior to 2002 are notified to the competent civil court;**
- **the legal status of voluntary residents who are prevented from leaving Kernu Social Welfare Home is clarified.**

120. A certain number of patients/residents at Ahtme Psychiatric Hospital and Kernu Social Welfare Home were persons deprived of their legal capacity who had been placed in those establishments at the request of their guardian.

The procedure for depriving a person of his/her legal capacity is regulated by the Family Law Act and the Code of Civil Procedure.⁶³ A guardian may be appointed upon a person's own request or upon the proposal by a family member or the guardianship authority (local administration). During this procedure, the wishes of the person concerned shall be taken into account, and he/she shall be summoned to a court session if his/her mental state allows. A psychiatric expertise is required.⁶⁴

Such persons could be admitted to a psychiatric hospital/social welfare home solely with the written consent of their guardian. As a consequence, they were considered *voluntary* patients and courts were not involved in the placement procedure. In the CPT's view, placing incapacitated persons in a psychiatric hospital/social welfare institution, without the benefit of the procedural safeguards otherwise provided for by law, is a highly questionable practice. **The CPT would like to receive the Estonian authorities' comments on this point.**

121. Further, at the Kernu Social Welfare Home, the delegation observed that a nursing assistant acted as court-appointed guardian for 10 out of 16 residents, who were deprived of their legal capacity. The very fact that it is also the role of a guardian to defend the rights of incapacitated persons vis à vis the hosting social welfare institution may easily lead to a conflict of interest and, eventually, compromise the independence and impartiality of the guardian. Therefore, **the CPT recommends that the Estonian authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.**

⁶³ Cf. Section 95 of the Family Law Act and Sections 256 to 263 of the Code of Civil Procedure.

⁶⁴ In this connection, the CPT welcomes the decision of the Estonian Supreme Court dated 30 October 2003, which ruled that, according to Article 6 of the European Convention of Human Rights, a person must have the right to be brought before the court and be represented by a legal representative appointed *ex officio* (paid by the State) during proceedings to deprive him/her of his/her legal capacity.

b. safeguards during placement

122. An *introductory leaflet/brochure* setting out the establishment's routine and patients'/residents' rights should be issued to each patient/resident on admission, as well as to their families. Any patients/residents unable to understand this brochure should receive appropriate assistance.

At both establishments visited, patients/residents were informed orally upon admission about the internal rules, which were displayed on notice boards in the wards. However, no written information was provided upon admission to patients/residents.

The CPT recommends that an introductory leaflet/brochure be issued at Ahtme Psychiatric Hospital and Kernu Social Welfare Home to each newly-arrived patient/resident (and his/her legal representative), accompanied, if necessary, by appropriate oral explanation.

123. An effective *complaints procedure* is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist enabling patients/residents to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

At Ahtme Psychiatric Hospital, patients could submit a complaint to the Director or the social welfare departments of the local and county authorities, the Ministry of Social Affairs and the competent courts. However, no information was provided to patients about the existence of such possibilities. At Kernu Social Welfare Home, complaints by residents were handled informally by the nurse on duty or the Director. External complaints could also be lodged by residents and their legal representatives with the competent local and county authorities. However, residents received no information in this regard.

The CPT recommends that at both establishments, patients/residents be informed in the introductory leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so.

124. The CPT also attaches considerable importance to psychiatric/social welfare establishments being visited on a regular basis by an independent outside body (*e.g.* a judge or supervisory committee) which is responsible for the *inspection* of patients'/residents' care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations.

Ahtme Psychiatric Hospital was regularly visited by representatives of the Sickness Benefit Fund (affiliated with the Ministry of Social Affairs). However, these visits focused more on financial matters than on the quality of care and the living conditions of patients. A special inspection was carried out by the Ministry of Social Affairs in the context of the hospital's transformation into a foundation at the end of 2002. Kernu Social Welfare Home was visited bi-annually by representatives of the social welfare department of the local administration, the Health Protection Inspectorate and the County Medical Officer (twice per year).

The CPT invites the Estonian authorities to explore the possibility of introducing regular visits to psychiatric/social welfare establishments by a body which is independent of the health/social welfare authorities.

125. At both establishments, the existing arrangements for *contact with the outside world* were satisfactory. Patients/residents were able to send and receive correspondence, to have access to the telephone, and to receive visits every day from their families and friends (cf., however, paragraph 112). Further, arrangements were made to allow patients/residents to stay with their families over weekends (cf. paragraph 96).

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

126. The majority of persons deprived of their liberty interviewed during the visit made no allegation of ill-treatment in police custody. In particular, the delegation received hardly any complaints about the manner in which detained persons were treated by custodial staff of arrest houses. However, the delegation did receive some allegations of ill-treatment by other police officers; those accounts included being punched, kicked or struck with batons, and related both to the time of apprehension as well as to the time spent in a police establishment. There were also a few cases where the delegation gathered supporting medical evidence, consistent with accounts of ill-treatment.

The CPT has recommended that senior police officers regularly instruct police officers that: ill-treatment will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of such treatment will be subject to severe sanctions. Further, police officers should be reminded that no more force than is reasonably necessary is to be used when effecting an apprehension. The Committee has also highlighted the steps to be taken by judges or prosecutors whenever there are grounds to believe that persons brought before them could have been the victims of ill-treatment.

127. The duty of care which is owed by the police to persons in their custody includes the responsibility to ensure the safety and physical integrity of detained persons. Police officers should be alert to any potential for self-harm and, more specifically, ensure that newly-detained persons do not have ready access to means of harming themselves (belts, ties, broken glass, etc.). The importance of these principles was highlighted by a serious incident which had taken place at Narva Arrest House shortly before the visit. The CPT has asked to be informed of the outcome of the inquiry initiated following that incident.

128. As early as 1997, the CPT was highly critical of conditions of detention in police arrest houses; the 2003 visit revealed that the Estonian authorities have failed to implement its key recommendations in this area.

In respect of certain arrest houses, including those in Kohtla-Järve and Narva, the cumulative effect of the execrable material conditions and the impoverished regime could well be described as inhuman and degrading. Detainees were locked up 24 hours per day - with no outdoor exercise - in cells that were filthy, dimly lit and severely overcrowded. The unpartitioned lavatories - where persons were obliged to relieve themselves in the direct presence of their cellmates - exacerbated the effects of the very poor ventilation. In many cases, persons were provided with no mattresses and blankets, and lacked basic personal hygiene products. The conditions of detention of juveniles were no different from those of their adult counterparts; further, in a number of cases, juveniles were placed in the same cells as adults, including for prolonged periods.

The Estonian authorities must take resolute and sustained action - founded on a solid, properly-resourced strategy - to improve conditions of detention in arrest houses, in light of the CPT's detailed recommendations. That strategy should include regular independent inspections of the premises concerned. As for juveniles placed in arrest houses, they must be accommodated separately from adults, and those detained for prolonged periods should be provided with a programme of educational activities (including physical education).

129. As regards formal safeguards against ill-treatment, the new Code of Criminal Procedure (due to enter into force on 1 July 2004) makes no explicit reference to the right of persons deprived of their liberty to notify a third party of their custody; this lacuna needs to be filled. In contrast, the new provisions concerning the right of access to a lawyer for criminal suspects have been welcomed by the CPT. The Committee has also recommended that appropriate action be taken to ensure that the above-mentioned rights are rendered fully effective in practice, with respect to all categories of persons deprived of their liberty by the police.

As for access to a doctor, persons admitted to arrest houses were still not benefiting from a thorough medical screening promptly on arrival; this is all the more serious considering the increase of the maximum periods of detention. Responding to the delegation's end-of-visit observations on this subject, the Estonian authorities have indicated that police prefectures have concluded, or will soon conclude, agreements for the provision of health care services. The CPT has welcomed this development.

B. Prisons

130. No allegations of ill-treatment of inmates by staff were heard at Tallinn Prison or at the Central Prison Hospital. Further, the majority of inmates interviewed at Tartu Prison made no allegations of such treatment.

However, a number of consistent accounts were heard at Tartu Prison relating to alleged beatings by masked members of a special squad during an intervention in the block for sentenced prisoners in May 2003. The CPT's delegation requested the authorities to ensure that a thorough, impartial, and independent inquiry was carried out into the matter. The CPT has welcomed the swift response by the Estonian authorities, who indicated that an inquiry had been initiated "in order to find out the exact course of events and to prevent such incidents from happening in the future."

The CPT has recommended that any future involvement in prisons of a special intervention squad be monitored by an authority (e.g. senior judicial authorities) which is independent from the particular establishment concerned as well as from the squad carrying out the intervention. The presence of such an authority would have a dissuasive effect on anyone minded to ill-treat prisoners, and greatly facilitate the investigation of any allegations of ill-treatment and the correct attribution of blame.

131. More generally, the CPT has recommended that the Estonian authorities continue to give high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills.

132. The Estonian authorities can be justly proud of the material conditions of detention at Tartu Prison; comparing what the CPT found at the Central Prison during its first visit to Estonia in 1997 to what it found in 2003 at the new prison - in terms of material conditions - is like comparing night and day.

However, as regards the remand section of Tallinn Prison, the transfer of inmates from the now-defunct Central Prison has led to overcrowding and, consequently, to a deterioration of material conditions. The CPT has recommended that the Estonian authorities rapidly devise and vigorously pursue a strategy for reducing the occupancy rates in the remand blocks of Tallinn Prison, always bearing in mind that the strategy should not have the side effect of transferring a problem from one establishment to another. A standard of at least 4 m² of living space per prisoner in multi-occupancy cells should be maintained throughout the prison system.

133. A fundamental problem as regards *remand prisoners* in Estonia is the total lack of out-of-cell activities offered to inmates. In this respect, the Imprisonment Act (2000) flatly contradicts the urgent recommendation made by the Committee on this subject after the 1997 visit. At the time of the 2003 visit, remand prisoners were being held for 23 hours a day in their cells. Their only regular out-of-cell activity was a daily hour of outdoor exercise, in areas which were not sufficiently large to permit them to exert themselves physically. As regards, more particularly, the situation in Tartu Prison, one of the most harmful effects of the impoverished regime for remand prisoners held in that establishment was the reduction of human contact to a bare minimum, due to the fact that prisoners were held one or two to a cell and inmates from different cells could never associate. In this regard, the CPT has repeatedly cautioned that the introduction of smaller units for prisoners must under no circumstances be allowed to lead to a generalised system of small-group isolation. The Committee was pleased to note that the Estonian authorities have expressed agreement with its delegation's remarks concerning the above-mentioned matter.

The CPT has recommended that the Estonian authorities take steps, as a matter of urgency, to radically improve the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment must be revised accordingly.

134. Although *sentenced prisoners* at Tartu Prison did have an appropriate amount of daily time outside their units, there remained a gap between the aspirations professed by management and staff and the programmes of activities which were actually being delivered to many of them; some 37 % of the inmates did not benefit from a positive regime which might encourage them to address their offending behaviour. The CPT has recommended that the relevant authorities take the necessary steps to ensure that all prisoners at Tartu Prison have access to an appropriate range of work, educational, sports and recreational activities.

135. The health care staffing level at Tallinn Prison was scarcely sufficient to provide adequate health care; in particular, the nursing staff resources were clearly inadequate. The situation was somewhat better at Tartu Prison. As for the health care facilities, they were of an excellent standard at Tartu, and generally satisfactory at Tallinn. The CPT has made recommendations designed to reinforce the contribution made by prison health care services to the prevention of ill-treatment of detained persons, through the detailed and systematic recording of injuries observed during the examination of inmates.

136. The problem of overcrowding at the Central Prison Hospital in Tallinn had been resolved with the closure of the Central Prison. However, in all other respects, the hospital's material conditions - which were the subject of the CPT's principal criticism of the establishment in the report on its 1997 visit - had actually deteriorated. Given the hospital's severely dilapidated state, it remained practically impossible to maintain even a minimum level of hygiene in the premises. The Estonian authorities must be unwavering in their efforts to withdraw the Central Prison Hospital from service at the earliest possible opportunity; the premises are inherently unsuitable for use as a hospital.

C. Psychiatric establishments

137. The delegation heard no allegations of ill-treatment of patients/residents by staff at Ahtme Psychiatric Hospital and Kernu Social Welfare Home. The atmosphere in the two institutions was on the whole relaxed, and staff-patient/resident relations were good. The CPT wishes to place on record the professionalism and commitment demonstrated by the medical and nursing staff towards their patients/residents.

138. Nevertheless, the CPT is seriously concerned about the level of violence among residents at Kernu Social Welfare Home; its delegation received numerous allegations of verbal and physical assaults of residents by fellow-residents. The CPT has recommended that urgent steps be taken at Kernu to elaborate and implement in practice a specific policy aimed at reducing the risk of inter-resident violence.

139. The delegation formed a generally favourable impression of patients' living conditions at Ahtme Psychiatric Hospital. However, the CPT has recommended that immediate steps be taken to offer a minimum of one hour of outdoor exercise per day to all patients whose state of health so permits.

At Kernu Social Welfare Home, the living conditions were of a good standard in all renovated areas (including the entire closed unit). In contrast, the rooms in the main building which had not yet been renovated were in a poor state of repair; the CPT has sought information on the progress made in the renovation work.

140. Health care staffing levels and the provision of treatment were very good at Ahtme Psychiatric Hospital. Patients received individualised, mainly pharmacotherapy-based, treatment appropriate to their condition. In addition, the establishment offered various rehabilitative and therapeutic activities (e.g. psychotherapy, occupational therapy, etc.).

The CPT has nevertheless emphasised once again that patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as automatically authorising treatment without his/her consent. This implies that patients should be systematically provided with relevant information about their condition and the treatment prescribed for them (side effects, duration, results, etc.).

At Kernu Social Welfare Home, the provision of appropriate somatic and psychiatric care was seriously compromised by inadequate staff arrangements and the lack of specific rehabilitation services. The CPT has recommended in particular that steps be taken to ensure that the nursing staff presence, especially at night and on weekends, is reviewed, and that the establishment is visited by a general practitioner and a psychiatrist at least once per week. Further, rehabilitative services (psychology, physiotherapy, etc.) should be provided.

141. As regards the use of means of physical restraint, the CPT has recommended that a clear written policy on how to deal with agitated and/or violent residents be established at Ahtme Psychiatric Hospital and Kernu Social Welfare Home, taking into account criteria identified by the Committee. Further, appropriate steps should be taken at Kernu to avoid involving residents in the restraint of a fellow-resident.

142. The CPT has also made a number of specific recommendations concerning the safeguards surrounding the involuntary placement of persons in psychiatric hospitals and social welfare homes, e.g. the right of patients/residents to be heard in person by the court during involuntary placement/appeal procedures; decisions on involuntary placement to be notified in writing to the patient/resident concerned; access to free legal representation for indigent patients; information on patients'/residents' rights. The Committee has also invited the Estonian authorities to explore the possibility of introducing regular visits to psychiatric/social welfare establishments by a body which is independent of the health/social welfare authorities.

D. Action on the CPT's recommendations, comments and requests for information

143. The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I.

144. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Estonian authorities to provide within **six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Estonian authorities to provide in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

APPENDIX I

**LIST OF THE CPT'S RECOMMENDATIONS,
COMMENTS AND REQUESTS FOR INFORMATION**

A. Police establishments

Ill-treatment

recommendations

- senior police officers regularly to instruct police officers that: ill-treatment will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of ill-treatment will be subject to severe sanctions (paragraph 14);
- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an apprehension and that once apprehended persons have been brought under control, there can be no justification for their being struck (paragraph 15);
- whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 18);
- immediate steps to be taken to ensure that all police cells, including those in arrest houses, are adequately monitored, taking into account the remarks in paragraph 20 (paragraph 20);
- in respect of every occasion on which inmates are removed from prison at the request of a police investigator, a formal record to be kept of the reason for their removal and of all measures taken during their presence on police premises (paragraph 22).

comments

- police officers should be alert to any potential for self-harm and, more specifically, ensure that newly-detained persons do not have ready access to means of harming themselves (belts, ties, broken glass, etc.) (paragraph 19).

requests for information

- an account, covering the period from 1 January 2003 to the present time, of all complaints of police violence received and the outcome of the relevant disciplinary and/or criminal proceedings (allegations, brief descriptions of the findings of the relevant court or body, verdict, sentence/sanction imposed) (paragraph 16);
- confirmation that, under the new Code of Criminal Procedure, there is no longer the possibility for detained persons to waive their right to be brought before the judge who must decide on the prolongation of police custody beyond 48 hours (paragraph 17);
- the outcome of the inquiry initiated following the suicide by a detainee in one of the temporary holding cells at Narva Arrest House in September 2003, and any measures taken in response (paragraph 19).

Conditions of detention

recommendations

- all necessary steps to be taken to implement, without further delay, the CPT's recommendations concerning material conditions of detention in police arrest houses (cf. paragraphs 39 to 41 of CPT/Inf (2002) 26 and paragraphs 23 to 25 of CPT/Inf (2002) 28). The strategy for improving conditions of detention should include regular independent inspections of the premises concerned (paragraph 32);
- immediate steps to be taken to ensure that juveniles placed in arrest houses are accommodated separately from adult detainees. Juveniles detained for prolonged periods should be provided with a programme of educational activities (including physical education) (paragraph 32);
- as a first step concerning the organisation of a regime of activities, reading matter to be provided to persons held in arrest houses. Consideration should also be given to permitting them to keep radios or television sets in their cells (paragraph 33);
- anyone held in an arrest house for a prolonged period should be permitted to maintain contacts with the outside world according to the same principles as those which should apply to a person held in prison (paragraph 33);
- the shortcomings observed in the cells at Põhja Police Department in Tallinn to be remedied (paragraph 35);
- conditions of detention in all police establishments in Estonia to be reviewed, having regard to the criteria set out in paragraph 23 (paragraph 35).

requests for information

- confirmation that "bedsheet sets" include clean mattresses and clean blankets (paragraph 31);
- a copy of the standard design for arrest houses (paragraph 32).

Safeguards against the ill-treatment of persons deprived of their liberty

recommendations

- the new Code of Criminal Procedure to be amended to include explicit reference to the right of notification of custody, incorporating fully the principles set out by the Committee in its previous visit reports (cf. in particular paragraph 29 of CPT/Inf (2002) 28). In the interim, the right of notification of custody should be developed in subsidiary regulations (paragraph 37);
- appropriate action to be taken to ensure that the right of notification of custody is rendered fully effective in practice, with respect to all categories of persons deprived of their liberty by the police (including administrative detainees) (paragraph 37);
- a doctor to be called without delay whenever a person in police custody requests a medical examination; police officers should not seek to vet such requests (paragraph 40);
- written information on rights to be given to all persons deprived of their liberty by the police, at the very outset of their deprivation of liberty (paragraph 41).

comments

- the CPT trusts that appropriate steps will be taken to ensure that the provisions on access to a lawyer contained in the new Code are fully complied with in practice. The right of access to a lawyer should be enjoyed by anyone who is under a legal obligation to attend - and stay at - a police establishment. Further, appropriate provision should be made for persons who are not in a position to pay for a lawyer. The Committee suggests that the Bar Association be consulted in this context (paragraph 38).

requests for information

- a detailed account of the progress made towards providing proper health care in all police arrest houses (paragraph 40).

B. Prisons

Ill-treatment

recommendations

- any future involvement in prisons of a special intervention squad to be monitored by an independent authority (e.g. senior judicial authorities) (paragraph 45);
- the necessary steps to be taken to ensure that, in respect of all investigations into possible ill-treatment by prison officers, the persons responsible for the investigation, as well as those actually carrying it out, are independent from those implicated in the events (paragraph 46);
- the Estonian authorities to continue to give high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills (paragraph 48);
- steps to be taken at Tallinn Prison to ensure that prison officers do not carry batons in full view of inmates (paragraph 49).

requests for information

- the outcome of the inquiry concerning an intervention by a special squad in the block for sentenced prisoners in May 2003 at Tartu Prison, as well as any measures taken in response (paragraph 45);
- for the period from 1 January 2003 to the present time:
 - the number of complaints lodged of ill-treatment by custodial staff in establishments under the authority of the Ministry of Justice and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by custodial staff (paragraph 50).

Material conditions

recommendations

- the Estonian authorities to rapidly devise and vigorously pursue a strategy for reducing the occupancy rates in the remand blocks of Tallinn Prison to no more than four persons per cell, always bearing in mind that the strategy should not have the side effect of transferring a problem from one establishment to another (paragraph 52);
- the necessary repairs to be carried out to the installations and cells in the remand section at Tallinn Prison (paragraph 52);
- the Estonian authorities to strive to maintain a standard of at least 4 m² of living space per prisoner in multi-occupancy cells, and official capacities to be calculated accordingly (paragraph 53).

Activities

recommendations

- steps to be taken, as a matter of urgency, to radically improve the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment must be revised accordingly (paragraph 56);
- outdoor exercise facilities to be made sufficiently large to enable prisoners to exert themselves physically (paragraph 56);
- the practice of playing a radio programme tuned to an unpleasantly high volume all day at Tallinn Prison to be discontinued (paragraph 57);
- the necessary steps to be taken to ensure that all prisoners at Tartu Prison have access to an appropriate range of work, educational, sports and recreational activities (paragraph 58);
- the regime applied to life-sentenced prisoners at Tartu Prison to be revised, in the light of the remarks in paragraph 59 (paragraph 59).

comments

- the Estonian authorities are invited to ensure that remand prisoners are included to the extent possible in initiatives aimed at increasing by 2006 the number of working and studying prisoners (paragraph 60).

requests for information

- the number of inmates enrolled in computer and language courses (English and Estonian) at Tartu Prison (paragraph 58).

Health care services

recommendations

- nursing resources at Tallinn Prison to be reinforced (paragraph 61);
- the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, to contain:
 - (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;
 - (ii) a full account of objective medical findings based on a thorough examination;
 - (iii) the doctor's conclusions in the light of (i) and (ii); these conclusions should be made available to the prisoner and his/her lawyer(paragraph 64);
- existing procedures to be reviewed in order to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record is brought to the attention of the relevant public prosecutor (paragraph 64);
- medical examinations of prisoners to be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 65).

requests for information

- which of the six vacant posts for health care staff at Tartu Prison have been filled (paragraph 61);
- confirmation that prisoners are examined on an individual basis at Tallinn Prison, and not in the presence of other inmates (paragraph 65).

Central Prison Hospital, Tallinn

recommendations

- a very high priority to be attached to finding a suitable alternative to the Central Prison Hospital, which should enable it to be closed (paragraph 70);
- in the interim, steps to be taken to:
 - offer organised activities to all patients at the Central Prison Hospital;
 - guarantee ready access of health care staff to patients at all times;
 - develop psycho-social therapeutic activities for psychiatric patients and adapt them to the individual needs of each of those patients (paragraph 70).

Other issues

recommendations

- uniform regulations to be established for all prisons on the question of the frequency and duration of visits to remand prisoners by family members or other persons. The objective should be to offer the equivalent of a visit every week, of at least 30 minutes duration (paragraph 71);
- steps to be taken to ensure that the precepts set out in paragraph 80, regarding resort to instruments of physical restraint, are strictly observed in practice (paragraph 80);
- all persons placed in a disciplinary cell to be allowed access to reading matter, which should not be limited to prison regulations and the Bible (paragraph 81);
- the relevant authorities to ensure that all prisoners (both remand and sentenced), throughout the penitentiary system, are provided with precise written information on the avenues of complaint available to them; if necessary, prisoners should also be supplied with writing materials. Further, practical measures should be taken to ensure that complaints can be transmitted confidentially (e.g. by providing complaint boxes accessible to prisoners, to be opened only by specially designated persons) (paragraph 82).

comments

- the CPT wishes to stress the need for a certain flexibility when applying the rules on visits to prisoners whose families have difficulties making regular visits. For example, such prisoners could be authorised to combine several visit entitlements into one longer session (paragraph 71);
- steps should be taken to ensure that prisoners subject to a disciplinary sanction are given a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues/deadlines for lodging an appeal (paragraph 76);

- the special cells at Tartu Prison are not suited for disciplinary use, given that they lack furniture (paragraph 79);
- the CPT trusts that the Legal Chancellor will continue to maintain a proactive role in the prevention of ill-treatment of prisoners (paragraph 84).

requests for information

- the action taken following the proposal made by the Legal Chancellor to establish an effective procedure to ensure confidentiality of telephone conversations (paragraph 74);
- the action taken to establish uniform regulations on correspondence for all prisons, as well as a copy of any new regulations (paragraph 75);
- confirmation that prisoners have the formal right to appeal to a higher authority against any disciplinary sanctions imposed on them (paragraph 76);
- the procedural safeguards applicable in cases of segregation and application of means of restraint (right to be heard, right to appeal to a higher authority, etc.) (paragraph 77);
- comments on the implementation of Section 108 of the Imprisonment Act (2000), which provides for a system of prison committees operating at each establishment and made up of members of the public (paragraph 83).

C. Psychiatric establishments

Ill-treatment

recommendations

- urgent steps to be taken at Kernu Social Welfare Home to review the management of aggressive/violent residents. For this purpose, a specific policy should be elaborated and implemented in practice, aimed at reducing the risk of inter-resident violence (paragraph 89);
- all staff members at Kernu Social Welfare Home to be reminded that they have a duty to ensure the safety and physical integrity of residents and to protect them from other residents who might wish to cause them harm (paragraph 89).

Patients'/residents' living conditions

recommendations

- immediate steps to be taken at Ahtme Psychiatric Hospital to ensure that all patients whose state of health permits are offered at least one hour of outdoor exercise per day (paragraph 92).

comments

- the authorities are invited to improve the heating (in particular at night) at Ahtme Psychiatric Hospital and to provide all patients with lockable space to store their personal belongings (paragraph 91);
- the authorities are invited to provide all residents at Kernu Social Welfare Home with lockable space to store their personal belongings (paragraph 93).

requests for information

- detailed information on the progress made in the renovation work at Kernu Social Welfare Home (paragraph 93).

Staff and treatment

recommendations

- steps to be taken at Ahtme Psychiatric Hospital (as well as in other psychiatric establishments in Estonia) to ensure that all competent patients are placed in the position to give their informed consent to treatment in writing. For this purpose, they should be systematically provided with relevant information about their condition and the treatment prescribed for them (side effects, duration, etc.). Relevant information should also be provided to patients following treatment (results, etc.) (paragraph 97);
- steps to be taken at Kernu Social Welfare Home to ensure that:
 - the nursing staff presence, especially at night and on weekends, is reviewed; this will almost certainly require increasing the overall complement of such staff;
 - specialised training is provided for nursing assistants in dealing with residents with severe learning disabilities;
 - the establishment is visited by a general practitioner and a psychiatrist at least once per week;
 - every resident is subject to a medical examination promptly upon admission;
 - rehabilitative services (psychology, physiotherapy, etc.) are provided (paragraph 100);

- steps to be taken at Kernu Social Welfare Home to ensure that the confidentiality of medical data is fully respected (paragraph 101).

requests for information

- more detailed information on the preliminary plans at Ahtme Psychiatric Hospital to create a special nursing care section for patients who are no longer in need of in-patient medical care, but who cannot live on their own and cannot be accommodated in the outside community (paragraph 96).

Restraint of agitated and/or violent patients/residents

recommendations

- a written policy on the use of means of restraint and seclusion to be established both at Ahtme Psychiatric Hospital and Kernu Social Welfare Home and steps to be taken to ensure that the procedures followed in this connection are brought into line with the requirements set out in paragraph 103 (paragraph 106);
- appropriate measures to be taken at Ahtme Psychiatric Hospital and Kernu Social Welfare Home to avoid involving residents in the restraint of a fellow-resident. Resolving episodes of acutely disturbed behaviour should be the exclusive responsibility of staff; ensuring that this is the case will require increasing the staff presence (paragraph 106).

Safeguards

recommendations

- the Estonian authorities to review the procedures for involuntary placement in psychiatric hospitals, in the light of the remarks made in paragraphs 107 to 113; more particularly, steps should be taken to ensure that:
 - involuntary placement procedures in psychiatric hospitals offer guarantees of independence and impartiality, as well as of objective psychiatric expertise; more specifically, a court should seek an opinion from a psychiatrist outside the hospital concerned before deciding whether to prolong an involuntary placement beyond 14 days;
 - patients who are admitted to a psychiatric hospital on an involuntary basis have the right to be heard in person by the court during placement/appeal procedures;
 - the patient concerned is notified in writing of decisions on involuntary placement in a psychiatric hospital, informed about the reasons for the decision and the avenues/deadlines for lodging an appeal, and granted unlimited and unrestricted access to their legal representative/lawyer;

- indigent patients benefit from free legal representation and are exempted from court fees incurred in the context of judicial appeal/review procedures;
- patients themselves are able to request at reasonable intervals that the necessity for their placement be considered by a judicial authority (paragraph 114);
- the Estonian authorities to take steps to ensure that:
 - residents who are placed in a social welfare home on an involuntary basis by court decision have the right to be heard in person during placement/appeal procedures;
 - the patient concerned is notified in writing of decisions on involuntary placement in a social welfare home, informed about the reasons for the decision and the avenues/deadlines for lodging an appeal;
 - residents and/or their guardian are able to request at reasonable intervals that the necessity for placement be considered by a judicial authority;
 - all cases of involuntary admission to Kernu Social Welfare Home prior to 2002 are notified to the competent civil court;
 - the legal status of voluntary residents who are prevented from leaving Kernu Social Welfare Home is clarified (paragraph 119);
- the Estonian authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 121);
- an introductory leaflet/brochure to be issued at Ahtme Psychiatric Hospital and Kernu Social Welfare Home to each newly-arrived patient/resident (and his/her legal representative), accompanied, if necessary, by appropriate oral explanation (paragraph 122);
- patients/residents at Ahtme and Kernu to be informed in the introductory leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (paragraph 123).

comments

- the Estonian authorities are invited to explore the possibility of introducing regular visits to psychiatric/social welfare establishments by a body which is independent of the health/social welfare authorities (paragraph 124).

requests for information

- whether it is intended to make provision for a procedure outside emergency situations, whereby a mental patient could be hospitalised against his/her will, in the context of the ongoing reform of the Estonian mental health legislation (paragraph 109);
- comments on the practice of placing incapacitated persons in a psychiatric hospital/social welfare institution, without the benefit of the procedural safeguards otherwise provided for by law (paragraph 120).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Justice

Ken-Marti VAHER	Minister of Justice
Peeter NÄKS	Deputy Secretary General on Prisons
Elina SIIMON	Assistant to the Deputy Secretary General on Prisons, CPT's liaison officer
Kaija KIRCH	Foreign Relations Adviser, Prison Department, Liaison officer to the CPT

Ministry of Internal Affairs

Kalev TIMBERG	Deputy Secretary General of Internal Security
Knut KLAIS	Adviser of the Internal Security Police Department
Varmo REIN	Commissar of the Police Board, Liaison officer to the CPT

Ministry of Social Affairs

Sirlis SÕMER	Head of the Department of Social Welfare
Ivi AALAK	Head of the Foreign Relations Bureau, Liaison officer to the CPT
Laine PEEDU	Principal Specialist of Health Department

Other persons

Allar JÕKS	Legal Chancellor of the Republic
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B. Non-governmental organisations

Estonian Psychiatric Patient Advocacy Association