



CPT/Inf (2011) 15

## **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 9 to 18 May 2007**

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 (2011) 16.

Strasbourg, 19 April 2011

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Copy of the letter transmitting the CPT's report

Ministry of Justice  
Tõnismägi 5A  
EE – 15191 TALLINN

Strasbourg, 5 December 2007

Dear Madam/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 9 to 18 May 2007. The report was adopted by the CPT at its 64<sup>th</sup> meeting, held from 5 to 9 November 2007.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. 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 one month**, an account of the action taken to implement the recommendations in paragraphs 81 and 111 of the report;
- **within six months**, a response giving a full account of action taken to implement all of the recommendations formulated in the report.

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

The Committee would be grateful if it were possible, in the event of the responses forwarded being in Estonian, for them to be accompanied by an English or French translation. It would also be most helpful if the Estonian authorities could provide a copy of the responses in a computer-readable form.

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

Yours faithfully

Mauro PALMA  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

## 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 9 to 18 May 2007. The visit formed part of the CPT’s programme of periodic visits for 2007. It was the third periodic visit to Estonia to be carried out by the Committee<sup>1</sup>.

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

- Ales BUTALA, Head of delegation
- Eugenijus GEFENAS
- Zbigniew HOŁDA
- Tatiana RĂDUCANU
- Elena SEREDA.

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

- Elvin ALIYEV
- Muriel ISELI

and assisted by:

- Gérard LAURENCIN, psychiatrist, Regional Medical and Psychological Service, Toulouse, France (expert)
- Cyrille ORIZET, psychiatrist, Georges Pompidou European Hospital, Paris, France (expert)
- Meelis LEESIK (interpreter)
- Margus PUUSEPP (interpreter)
- Vivian RENNEL (interpreter)
- Ene TŠETÕRKINA (interpreter)
- Eevi VÕRK (interpreter).

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<sup>1</sup> The first two periodic visits to Estonia took place in July 1997 and in September 2003. The CPT also carried out an ad hoc visit in December 1999. The visit reports and the related Government responses have been published under the references CPT/Inf (2002) 26 and 27 (1997 visit), CPT/Inf (2002) 28 and 29 (1999 visit), and CPT/Inf (2005) 6 and 7 (2003 visit).

**B. Establishments visited**

3. The delegation visited the following places:

Establishments under the Ministry of Internal Affairs

- Kohtla-Järve Arrest House\*
- Narva Arrest House\*
- Rakvere Arrest House\*
- Rapla Arrest House
- Tallinn Arrest House\*
- Viljandi Arrest House\*
- Kohtla-Järve Police Station\*
- Narva Police Department\*
- Rakvere Police Department\*
- Repatriation Centre of the Citizenship and Migration Board, Harku

Establishments under the Ministry of Justice

- Murru Prison
- Tallinn Prison\*
- Viljandi Prison\*

In addition, the delegation went to Tartu Prison to interview newly-arrived remand prisoners.

Establishments under the Ministry for Social Affairs

- Viljandi Hospital Foundation
- Võisiku Care Home.

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\* Follow-up visit.

**C. Consultations and co-operation**

4. In the course of the visit, the delegation met Rein LANG, Minister of Justice, and held fruitful discussions with Marek HELM, Deputy Secretary General of the Ministry of Internal Affairs, Priit KAMA, Deputy Secretary General of the Ministry of Justice, and Riho RAHUOJA, Deputy Secretary General of the Ministry for Social Affairs, as well as with other senior officials of the Ministries concerned. It also held consultations with Allar JÕKS, Chancellor of Justice.

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

5. The co-operation received by the delegation during the visit, from both the authorities at ministerial level and staff at the establishments visited, was excellent. In particular, the delegation was granted rapid access to all the places it sought to visit (including those which had not been notified in advance) and was able to talk in private with all the persons with whom it wished to speak.

6. However, the principle of co-operation set out in the Convention is not limited to steps taken to facilitate the task of a visiting delegation. The authorities' efforts to improve the situation in the light of the CPT's recommendations are also an essential indicator of the quality of the co-operation which underpins the relationship between the Committee and a State Party to the Convention.

Whilst positive steps have clearly been taken in certain areas, the delegation's findings during the 2007 visit reveal that hardly any progress has been made towards improving conditions of detention in police arrest houses, despite recommendations repeatedly formulated by the Committee since its first visit to Estonia in 1997.

Having regard to Article 3 of the Convention, the CPT urges the Estonian authorities to intensify their efforts to improve the situation in the light of the Committee's recommendations.

**D. Immediate observation under Article 8, paragraph 5, of the Convention**

7. At the end-of-visit talks on 18 May 2007, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention concerning the conditions of detention at Kohtla-Järve, Narva, Rakvere and Tallinn Arrest Houses, which were totally unacceptable. The delegation called upon the Estonian authorities to take urgent steps to improve conditions of detention in the above-mentioned police arrest houses, as well as at any other establishments where similar conditions prevailed. In particular, it should be ensured that:

- (1) all persons held overnight in an arrest house are provided with a clean mattress and clean blankets as well as with personal hygiene products (toilet paper, soap, toothbrush and paste, towel, sanitary towels, etc.);
- (2) cell lighting and ventilation are adequate;
- (3) all persons who are detained for more than 24 hours are granted at least one hour of outdoor exercise per day.

8. The above-mentioned immediate observation was confirmed in a letter dated 11 June 2007 by the President of the CPT, in which the Estonian authorities were requested to provide within three months an account of the measures taken in response.

By letter of 12 September 2007, the Estonian authorities provided comments on the statement made by the CPT's delegation at the end of the visit, including information on the action being taken in response to the above-mentioned immediate observation. That information will be assessed in the relevant sections of this report.



## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Preliminary remarks

9. Following the entry into force of the new Code of Criminal Procedure (CCP) on 1 July 2004, the legislative framework governing the detention of persons who are suspected of having committed a criminal offence has undergone certain changes. In particular, the maximum period for which criminal suspects may be held in police custody has been reduced from 30 days to 48 hours<sup>2</sup>. Within the 48-hour period, the persons concerned have to be brought before a preliminary investigation judge, who decides on whether to detain them on remand (or impose on them other preventive measures) or to release them.

10. The Code of Misdemeanour Procedure<sup>3</sup> (CMP) and the Police Act<sup>4</sup> provide, inter alia, legal grounds for the detention, for the purpose of identification and/or the preparation of a misdemeanour report, of persons who are suspected of having committed a misdemeanour or having violated public order (maximum period 48 hours), as well as for the detention of persons who, due to alcohol or narcotic intoxication, might present a danger to themselves or others (maximum period 24 hours).

According to Article 21 of the Estonian Constitution, no-one shall be held in custody for more than 48 hours without the specific authorisation of a court.

11. As was the case in 2003, police arrest houses, which are administered by the Ministry of Internal Affairs, were systematically used as prisons to accommodate remand prisoners<sup>5</sup>, sentenced prisoners serving short prison terms (of up to three months), and persons sentenced to detention for commission of a misdemeanour (which may not exceed 30 days<sup>6</sup>).

In addition, remand prisoners may be returned from prison to an arrest house by decision of a public prosecutor, if this is considered necessary for the purposes of the investigation (see, in this regard, paragraph 30).

In practice, a significant number of detained persons were still being held in police arrest houses for prolonged periods. At the time of the visit, some remand prisoners had already spent five months in such establishments.

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<sup>2</sup> Section 217, paragraph 1 of the CCP. Previously, the period of police custody could be extended by order of a judge from 48 hours to ten days and, subsequently, to a maximum of 30 days.

<sup>3</sup> Section 44, paragraph 1, of the CMP.

<sup>4</sup> Section 13, paragraphs 3 and 7, and 15<sup>6</sup>, paragraph 1, of the Police Act.

<sup>5</sup> During the pre-trial procedure, remand detention may in principle not last for more than six months. However, in exceptional circumstances this term may be extended by order of the preliminary investigation judge (in which case the law does not provide for any specific time limits); see Section 130, paragraphs 3 and 3<sup>1</sup>, of the CCP.

<sup>6</sup> Section 48 of the Penal Code.

12. As regards the detention of foreign nationals under aliens legislation, reference is made to paragraph 43 below.

13. Shortly before the visit (in the night of 26 to 27 April 2007), mass demonstrations had taken place in Tallinn, during which more than 1,000 persons had been apprehended by the police. The delegation paid particular attention to the manner in which these persons had been treated and the conditions under which they had been detained by the police<sup>7</sup>. From the information gathered, it appears that, once apprehended, the persons concerned had been transported to various detention facilities (police stations, arrest houses, court holding cells). However, as the capacity of the existing detention facilities was insufficient, the majority of these persons had been taken to a customs warehouse situated at Terminal D in the port of Tallinn<sup>8</sup>; following an identity check and questioning by the police, they had then either been released or transferred to a regular place of detention. In this connection, reference is made to the remarks and recommendations formulated in paragraphs 14, 16, 31, 32 and 41.

## **2. Ill-treatment**

14. With the notable exception of the April 2007 events, hardly any allegations of physical ill-treatment by the police were received.

As regards the above-mentioned events, the delegation received numerous allegations of ill-treatment and/or excessive use of force by the police. These allegations mainly concerned punches, kicks and baton blows to the head, back and legs, when the persons concerned had been brought under control. Furthermore, a number of detained persons complained of ill-treatment (kicks or baton blows) on arrival at the place of detention and until they were placed in a cell. Some claimed that were obliged to remain immobile for long periods of time, standing facing the wall or kneeling, while waiting to be placed in a cell (for example, three hours standing facing a wall and ninety minutes kneeling); in some cases, movements or speaking were allegedly punished by a blow. Some allegations were also received of very tight handcuffing for lengthy periods (from the time of apprehension to that of being placed in the cell), rude behaviour and insults. Most of the above-mentioned allegations concerned members of the special forces, some of whom were masked during the intervention.

The CPT is aware of the difficulties with which any police service is confronted during such extraordinary events. However, the prohibition of torture and inhuman or degrading treatment or punishment is absolute, and no exceptional circumstances may justify a derogation from that principle.

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<sup>7</sup> At the time of the visit, 55 persons who had been apprehended in connection with the demonstrations were still being detained on remand (33 of them at Tartu Prison – all met by the delegation).

<sup>8</sup> According to the Estonian authorities, 922 persons had been temporarily held in the warehouse.

**The CPT recommends that all police officers, in particular members of special intervention groups, be reminded that all forms of ill-treatment of persons deprived of their liberty (including verbal abuse) are not acceptable in whatever circumstances and will be punished accordingly. Police officers should also be reminded that the force used when performing their duties should be no more than is strictly necessary and that, once persons have been brought under control, there can be no justification for striking them.**

**Further, police officers must be trained in preventing and minimising violence in the context of an apprehension. For cases in which the use of force nevertheless becomes necessary, they need to be able to apply professional techniques which minimise any risk of harm to the persons whom they are seeking to apprehend.**

15. The CPT would also like to express its misgivings about the practice of law enforcement officials wearing masks when apprehending persons (as was apparently the case during the above-mentioned events) since this will hamper the identification of those responsible if and when instances of ill-treatment arise. **The Committee considers that only exceptional circumstances can justify measures to conceal the identity of law enforcement officials carrying out their duties. Where such measures are applied, appropriate safeguards must be in place in order to ensure that the officials concerned are accountable for their actions (e.g. by means of a clearly visible number on the uniform).**

16. In their letter of 12 September 2007, the Estonian authorities informed the CPT that eleven criminal investigations into alleged cases of police ill-treatment had been initiated in connection with the April 2007 events, most of them on the basis of Sections 121 (physical abuse) and 291 (abuse of authority) of the Penal Code. In four cases, these investigations had been discontinued, while, in all other cases, they were still pending.

**The CPT would like to receive updated information on the outcome of the above-mentioned investigations and an account of any criminal/disciplinary sanctions imposed.**

17. No allegations were received of physical ill-treatment of inmates by custodial staff of police arrest houses. However, as was the case in 2003, the conditions of detention under which persons were being held in the majority of the arrest houses visited (at Kohtla-Järve, Narva, Rakvere and Tallinn) were appalling and could be considered as inhuman and degrading (see paragraphs 35 to 40).

### 3. Fundamental safeguards against ill-treatment

18. The CPT wishes to recall that three fundamental rights (the right of those concerned to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor) should apply from the very outset of a person's deprivation of liberty. Furthermore, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

These safeguards should apply not only to persons detained by the police in connection with a criminal or administrative offence, but also to persons detained under aliens legislation, and to persons who are obliged to remain with the police for other reasons (e.g. as a witness or for identification purposes).

#### a. notification of custody

19. Pursuant to Article 21 of the Estonian Constitution, everyone who is deprived of his/her liberty shall be given the opportunity to notify those closest to him/her. The right of notification is also embodied in the CCP<sup>9</sup>, as well as in the CMP<sup>10</sup>.

From the information gathered during the 2007 visit, it transpired that progress had been made in the implementation of this fundamental safeguard since the 2003 visit. It emerged from the delegation's interviews with detained persons that most of them had been given the possibility of having a close relative or a third party notified.

Nevertheless, a number of persons interviewed did allege that they had not been able to exercise this right promptly. Some of them claimed that they were given an opportunity to notify their relatives of their custody only when they were brought before a judge.

**The CPT reiterates its recommendation that appropriate action 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, as from the very outset of their deprivation of liberty.**

20. As was the case during the 2003 visit<sup>11</sup>, the delegation found that in a number of cases the relevant entries in the forms entitled "Protocol of Detention" – which criminal suspects were requested to sign – were left blank. Thus, it was impossible to verify whether and when the persons concerned had been given an opportunity to exercise the right of notification. **Steps should be taken to remedy this shortcoming.**

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<sup>9</sup> Section 217, paragraph 10, stipulates that "a detained person has to be given an opportunity to notify at least one person of his or her choice about the fact of his or her detention through a body conducting proceedings".

<sup>10</sup> Pursuant to Section 46, paragraph 4, "[a]t the request of a person subject to proceedings, at least one person of his or her choice shall be notified of his or her location."

<sup>11</sup> CPT/Inf (2005) 6, paragraph 36.

21. Section 217, paragraph 10, of the CCP stipulates that “[i]f the notification prejudices a criminal proceeding, the opportunity to notify may be refused with the permission of the Prosecutor’s Office”.

As already indicated in the report on the 1999 visit, the CPT recognises that it may, on occasion, be necessary to delay the exercise of this right for a brief period, in order to protect the legitimate interests of a police investigation. However, any such possibility should be both clearly circumscribed in law and made subject to appropriate safeguards.

The CPT notes that the permission of the Prosecutor’s Office must be sought to delay the notification of one’s custody. However, the circumstances in which such a delay may be imposed are not clearly defined. **The CPT recommends that the relevant legislation be amended so that the circumstances in which the right of a detained person to notify those closest to him may be delayed are spelt out in a more precise manner.**

22. The CPT welcomes the fact that, whenever a minor is detained on suspicion of having committed a misdemeanour, the police are obliged to immediately notify the parent, guardian or curator and the social-services department of the detention<sup>12</sup>. However, no such obligation exists in respect of minors who are suspected of having committed a criminal offence. **The CPT recommends that steps be taken to ensure that this specific safeguard applies to all juveniles detained by the police; the CCP should be amended accordingly.**

b. access to a lawyer

23. The right of a *criminal suspect* to have prompt access to a lawyer is embodied in the Estonian Constitution<sup>13</sup> and the CCP<sup>14</sup>. The relevant legal provisions also provide for the right of a criminal suspect to be interrogated in the presence of a lawyer and to confer with a lawyer in private; if necessary, interrogation may be postponed in order to ensure the presence of a lawyer. Further, in certain circumstances, the presence of a lawyer is mandatory, especially when the person concerned is a minor or mentally disabled.

As far as the delegation could ascertain, in practice, criminal suspects were generally able to contact a lawyer without delay and to have a lawyer present during police questioning. However, there were some exceptions to this favourable situation. **The CPT recommends that the Estonian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person’s deprivation of liberty.**

24. It should be added that, in several of the police establishments visited, the recording in the “Protocol of Detention” of the exercise of the right to have access to a lawyer left much to be desired. As was the case with the right of notification, the relevant entries were frequently not filled in. **Reference is made to the comment in paragraph 20, which applies *mutatis mutandis* in this context.**

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<sup>12</sup> See Section 46, paragraph 4, of the CMP.

<sup>13</sup> Article 21 of the Constitution.

<sup>14</sup> Sections 33, paragraph 2, 34, paragraph 1, and 45, paragraph 1, of the CCP.

25. Since the visit carried out in 2003, a certain number of positive developments concerning legal aid have occurred. In particular, the Code of Criminal Procedure<sup>15</sup> now explicitly provides for the right to receive state legal aid from the moment of one's arrest, and the State Legal Aid Act came into force on 1 March 2005.

**The CPT would like to receive detailed information on the practical arrangements made to ensure the effectiveness of the legal aid system (e.g. to ensure that *ex officio* lawyers are contacted and meet their clients as from the initial stage of police custody).**

26. Persons who are apprehended by the police on suspicion of having committed a *misdemeanour* are generally granted the same rights as criminal suspects<sup>16</sup>.

However, in the case of minors, the presence of a lawyer is only mandatory in court proceedings, but not during any questioning by the police during police custody<sup>17</sup>. In this connection, the CPT must stress that the point of special provisions for minors is to protect this age group and provide them with adult support so that they do not have to make decisions with important legal implications on their own. If the onus is placed on the minor to request the presence of a lawyer or a trusted person during any questioning by the police, this defeats the object; such a presence should be obligatory. **The Committee recommends that the Estonian authorities take steps to ensure compliance with this requirement.**

c. access to a doctor

27. The legal situation with regard to access to a doctor for persons held in police custody is unchanged since the CPT's first visit to Estonia. In particular, the right of such persons to have access to a doctor is still not expressly provided for by law. Although no particular complaints were received by the delegation in this respect from detained persons during the 2007 visit (except in relation to the April 2007 events, see paragraph 31), the CPT remains concerned about the lack of a specific legal provision governing the right of access to a doctor. Further, the visit confirmed that detained persons were not always allowed to have access to a doctor of their own choice when being held in the establishments of law enforcement agencies.

**The CPT calls upon the Estonian authorities to ensure that specific legal provisions are adopted governing the right of access to a doctor for persons detained by the police (including to one of their own choice), from the very outset of their deprivation of liberty (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense).**

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<sup>15</sup> Section 499, paragraph 4, of the CCP.

<sup>16</sup> Section 19, paragraph 2, of the CMP.

<sup>17</sup> Section 19, paragraph 3, of the CMP.

28. The CPT has repeatedly stressed the importance of prompt and thorough medical screening of persons admitted to police arrest houses. This is essential not only in the context of the timely recording of injuries but also for safeguarding the health of all detainees and staff in the establishments concerned.

Despite the assurances given by the Estonian authorities in their response to the report on the 2003 visit<sup>18</sup>, the 2007 visit revealed that not all police arrest houses benefited from the presence of medical staff. As a result, in two of the arrest houses visited (at Rapla and Viljandi), medical screening on admission was not carried out. Such a state of affairs is not acceptable.

In those arrest houses where medical examinations were carried out upon admission (usually by a nurse), they were often performed in a cursory manner and, in a number of cases, also with considerable delay. Further, the confidentiality of medical data was often not respected (i.e. being accessible to non-medical staff).

**The CPT calls upon the Estonian authorities to take immediate steps to ensure that all persons admitted to a police arrest house are given a thorough medical screening without delay and that, throughout their stay, they are allowed ready access to health-care staff (including, if they so request, a doctor of their own choice).**

**Further, steps should be taken to ensure that the confidentiality of medical data is respected in all police arrest houses.**

d. information on rights

29. As was the case in 2003, the “Protocols of Detention”, which detained persons were requested to sign, contained information on rights. However, the persons concerned were still not being given a form to keep, setting out all their rights in a straightforward manner at the very outset of their deprivation of liberty, in any of the police establishments visited.

**The CPT calls upon the Estonian authorities to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their above-mentioned fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person’s rights in a straightforward manner. This form should be available in an appropriate range of languages.**

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<sup>18</sup> “At the latest on January 1, 2005 all police authorities will have signed agreements with a doctor or a medical assistant as regards the performance of initial medical examinations. As from January 1, 2005 every person placed in an arrest house will have to undergo a radiological check.” (CPT/Inf (2005) 7, page 10).

- e. return of remand prisoners to police arrest houses

30. It remains the case that remand prisoners are frequently returned to police arrest houses for investigation purposes with the approval of the public prosecutor<sup>19</sup>. In some cases, remand prisoners were returned to police arrest houses for up to two months.

**The CPT must stress once again that, from the standpoint of the prevention of ill-treatment, but also in view of the extremely poor conditions prevailing in certain police arrest houses, it is far preferable for further questioning of persons committed to a remand prison to be undertaken by police officers in prisons rather than on police premises. The return of prisoners to police premises should only be sought and authorised very exceptionally, for specific reasons and for the shortest possible time.**

- f. specific issues related to the April 2007 events

31. The information gathered during the visit demonstrated that many of the persons detained by the police in connection with the April 2007 events in Tallinn were not granted the fundamental safeguards set out in paragraph 18 from the outset of their deprivation of liberty.

Many of the persons concerned were apparently allowed to contact a family member or another person of their choice and to be assisted by a lawyer only when they were brought before a judge. Further, a number of detained persons claimed that their requests to see a doctor whilst in police custody had been denied, even when they displayed visible injuries.

**The CPT would like to stress that, even in exceptional circumstances such as those of the April 2007 events, it is incumbent on the authorities to make every effort to guarantee that persons detained by the police enjoy the above-mentioned fundamental safeguards as from the very outset of their deprivation of liberty.**

32. The examination of medical files at Tartu Prison revealed that injuries displayed by prisoners detained in connection with the April 2007 events had not always been recorded in detail upon admission to the prison. Further, the medical records often contained little or no information about the statements made by the prisoners concerned and never included the doctor's conclusion as to the possible causes of the injuries observed.

In this connection, **reference is made to the recommendations in paragraph 78.**

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<sup>19</sup> See paragraph 22 of the report on the 2003 visit.



#### 4. Conditions of detention

33. The CPT's delegation carried out follow-up visits to five police arrest houses, as well as to the police departments attached to three of those establishments (Kohtla-Järve, Narva, Rakvere). It also visited, for the first time, Rapla Arrest House.

##### a. police arrest houses

34. Conditions in police arrest houses in Estonia were the subject of severe criticism in previous visit reports, and most recently, in the report on the 2003 visit<sup>20</sup>. In their response to the latter report, the Estonian authorities indicated that a thorough overview of the situation in all arrest houses would be carried out and a development plan would be prepared with a view to eliminating existing problems, taking into account the CPT's recommendations.

35. However, the 2007 visit brought to light that hardly any progress had been made in this respect in most of the arrest houses visited (especially at Kohtla-Järve, Rakvere, Tallinn, and, to a lesser extent, Narva<sup>21</sup>).

As in 2003, material conditions of detention in the above-mentioned establishments were appalling. Inmates were still being held in filthy and overcrowded<sup>22</sup> cells, which had little or no access to natural light and only dim artificial lighting and which were often poorly ventilated. At Kohtla-Järve and Rakvere, many cells were devoid of any furniture except a wooden platform and an Asian-type toilet, which was not even partially partitioned. The state of repair and level of hygiene of the sanitary facilities also left a great deal to be desired. Further, the supply of basic personal hygiene products appeared to be insufficient.

At Kohtla-Järve, the delegation saw a cell equipped with a metal bench and a chair fixed to the floor. The cell measured a mere 2.4 m<sup>2</sup> and lacked natural light and sufficient artificial lighting. Moreover, it was in a poor state of cleanliness and pervaded with the pernicious stench of urine. Police officers affirmed to the delegation that the cell was only used for periods of a few hours to segregate agitated and/or violent inmates. However, upon consultation of the custody register, it came to light that detained persons, including juveniles and women, had, on occasion, been held in that cell for several days<sup>23</sup>. In the CPT's view, **a cell of such a size should only be used for temporary holding purposes (i.e. for no longer than a few hours) and should never be used as overnight accommodation.**

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<sup>20</sup> CPT/Inf (2005) 6, paragraph 32.

<sup>21</sup> Some improvements were observed at Narva Arrest House (e.g. installation of a new ventilation system and renovation of the shower room).

<sup>22</sup> For instance, up to six persons were held in a cell measuring some 11 m<sup>2</sup>.

<sup>23</sup> Shortly before the visit, a woman had been placed in that cell for four days.

36. In all the above-mentioned establishments (Kohtla-Järve, Narva, Rakvere and Tallinn Arrest Houses), the situation was further exacerbated by a very impoverished regime. Inmates were confined to their cells for 24 hours a day without being offered any out-of-cell activities, not even outdoor exercise, for weeks or even months on end. In-cell activities were limited to reading books or newspapers and listening to the radio (if inmates could afford to purchase one; television sets were usually not allowed). Further, juveniles were not offered any activities suitable for their age (such as education, sports, recreation).

Such a state of affairs is totally unacceptable.

The CPT has repeatedly underlined the harmful effects of overcrowding, a poor material environment and impoverished regime activities. The Committee is particularly concerned when it finds a combination of those factors. The cumulative effect of such conditions in certain arrest houses in Estonia could be considered to be inhuman and degrading, especially as persons were being held under such conditions for prolonged periods (i.e. up to several months).

37. The situation was clearly more favourable in the newer arrest houses at Rapla and Viljandi, both in terms of material conditions (i.e. better access to natural light and artificial lighting and cells equipped with tables) and regime activities. It is particularly noteworthy that inmates were allowed to keep radios and television sets in their cells and were offered up to two hours of outdoor exercise per day.

That said, a number of shortcomings were identified in both establishments. In particular, in-cell lavatories were not partitioned, and inmates were granted no outdoor exercise during weekends or public holidays (according to staff, this was due to staff shortages). Further, at Viljandi, several inmates complained about the fact that the artificial lighting could not be dimmed during the night.

38. As already indicated (see paragraph 7), at the end-of-visit talks on 18 May 2007, the delegation made an immediate observation concerning conditions of detention at Kohtla-Järve, Narva, Rakvere and Tallinn Arrest Houses, as well as at other arrest houses where similar conditions prevail. It called upon the Estonian authorities to take urgent steps to improve conditions of detention in the above-mentioned establishments.

39. By letter of 12 September 2007, the Estonian authorities provided the following information:

“The Ministry of Internal Affairs takes the immediate observations very seriously and makes maximum efforts to relieve the situation in detention houses within the available budget. Major improvement of detention conditions will be achieved in 2008 with the completion of Jõhvi detention house to the Jõhvi Prison, thereafter the detention house of Kohtla-Järve will be closed.

The Ministry of Internal Affairs has assured the following:

1. Police Prefectures guarantee for persons under detention, who spend in detention house more than 24 hours mattresses, bedclothes and initial personal hygiene products.
2. Lighting will be gradually improved along with providing food and washing facilities; imprisoned persons are also able to read daily newspapers. In Narva detention house a venting system with air-conditioning has been installed. Public phones have already been or will be installed shortly in detention houses.
3. Police Prefectures try to find solutions for walking possibilities to persons under detention, as the law requires. In the detention house of Põhja Police Prefecture the walking room has been renovated. In the detention house of Jõhvi walking possibilities are being planned.”

40. The CPT notes the measures taken thus far by the Estonian authorities. However, additional vigorous steps are required to render the situation acceptable, even for short-term detention.

More generally, the CPT considers that, given their structural deficiencies, virtually all police arrest houses are unsuitable for prolonged periods of detention. Further, remand and sentenced prisoners should, as a matter of principle, not be kept in police detention facilities, but in establishments administered by the Ministry of Justice.

In this connection, the CPT noted the Estonian authorities' remark in their letter of 12 September 2007 whereby “the whole concept of transferring the serving of a sentence and provisional custody functions to prisons is under consideration. Detention houses will take care of temporary detention, disenchantment, detention of a suspect no more than 10 days, detention of persons who have executed a misdemeanour or to whom a forced attendance will be applied.”

**The Committee recommends that the Estonian authorities pursue the above-mentioned plan as a matter of priority and put a definitive end as soon as possible to the practice of holding remand and sentenced prisoners in police arrest houses.**

**For as long as police arrest houses continue to be used for any detention other than police custody, arrangements should be made to ensure that all detained persons are offered at least one hour of outdoor exercise per day (including during weekends and public holidays).**

Finally, **immediate steps should be taken to ensure that in all police arrest houses:**

- **cells enjoy access to natural light and are fitted with adequate artificial lighting and ventilation;**
- **detained persons are able to comply with the needs of nature in decent conditions (by having partitioned in-cell toilets or ready access to sanitary facilities outside their cell).**

b. other police detention facilities

41. The majority of persons met by the delegation who had been apprehended during the April 2007 events in Tallinn complained of having been held in extremely cramped conditions for several hours in a warehouse located at Terminal D in the port of Tallinn<sup>24</sup>, in police stations<sup>25</sup> or in establishments not intended for police custody (at courts, for instance). It is claimed that the facilities in question had neither access to natural light nor were they equipped with any means of rest (such as benches). Several persons also alleged that they had been denied access, or had been granted access only with considerable delay, to sanitary facilities (located outside the cells). Further, a number of persons had allegedly received nothing to eat for the whole time they were detained by the police (in some cases for up to 24 hours, until they were transferred to a prison).

Whilst acknowledging the logistical difficulties faced by the authorities during the above-mentioned events, **the CPT would like to stress that the authorities have the duty of taking the necessary steps to ensure that all persons detained by the police are provided with a means of rest and have ready access to sanitary facilities.** Further, **the persons concerned should be given food at appropriate times.**

42. The CPT is particularly concerned by the very small size (approximately 1.5 m<sup>2</sup>) of the three “waiting cells” at Narva Police Department<sup>26</sup>. Police officers affirmed to the delegation that these cells were used only for a maximum period of three hours. However, consultation of the custody registers revealed that this time limit was often exceeded in practice (e.g. one person was kept in such a cell for nearly seven hours). The CPT must stress that the above-mentioned cells are, by virtue of their very size, unsuitable for holding anyone for any length of time.

**The Committee recommends that the above-mentioned cells at Narva Police Department be either enlarged or withdrawn from service.**

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<sup>24</sup> According to the Estonian authorities, the warehouse was used for detention for five to six hours.

<sup>25</sup> For example, ten persons in a cell measuring some 5 m<sup>2</sup>.

<sup>26</sup> The cells were also filthy and, in one of them, the walls were spattered with blood and excrement.

**B. Harku Repatriation Centre of the Citizenship and Migration Board**

43. The procedure for the detention and expulsion of foreign nationals staying in Estonia illegally is governed by the Law on Obligation to Leave and Prohibition on Entry. Such foreign nationals may be detained by the police, border guards or immigration control officers for up to 48 hours. If an expulsion order cannot be implemented within 48 hours of apprehension, the foreign national concerned may be placed, by order of an administrative court, in a repatriation centre until his/her removal from the territory of Estonia, but for no longer than two months. However, the placement may be extended by the administrative court for renewable periods of up to two months.

Current legislation does not provide for any absolute time limit for detention pending deportation. The CPT is concerned by the fact that, in practice, some foreign nationals were detained under aliens legislation for years on end<sup>27</sup>. **The Committee invites the Estonian authorities to introduce an absolute time limit for the detention of foreign nationals under aliens legislation** (as is already the case in the majority of European countries).

44. Harku Repatriation Centre of the Citizenship and Migration Board, which was opened in 2003, is currently the only detention centre for foreign nationals in Estonia. The Centre is located in a recently renovated two-storey building on the outskirts of Harku, some ten kilometres west of Tallinn. With an official capacity of 42 places, it was accommodating 13 foreign nationals at the time of the visit. The average length of detention was three to four months.

45. The delegation received no allegations of physical ill-treatment by staff at the Harku Repatriation Centre. Relations between staff and immigration detainees appeared to be relaxed. There were no communication problems, since all staff members spoke Russian and some also English.

46. Material conditions of detention at the Centre were of a high standard. All rooms were of a reasonable size (some 17 m<sup>2</sup> for up to four detainees), had good access to natural light and artificial lighting, and were well-ventilated and clean. They were also adequately furnished (having bunk beds with clean mattresses and bedding, a table, chairs and cupboards). Further, foreign nationals had unrestricted access to communal sanitary and shower facilities, which were in a good state of repair and hygiene.

47. As regards the regime, the CPT welcomes the fact that, during the day, foreign nationals were allowed to move freely within the Centre and the pleasantly laid-out garden. In addition, they had access to three communal rooms, and were able to watch television, play board games or read newspapers/books. However, it is a matter of concern that most of the foreign nationals who had been held in the Centre for prolonged periods were not offered any purposeful activities<sup>28</sup>.

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<sup>27</sup> At Harku Repatriation Centre, one person of Russian origin had already been detained for more than three years.

<sup>28</sup> On a more positive note, it should be added that one of the foreign nationals concerned was allowed to paint in his room and was supplied with all the necessary equipment.

**The CPT recommends that steps be taken to provide a better range of activities for foreign nationals held for prolonged periods at the Harku Repatriation Centre. The longer the period for which persons are detained, the more developed should be the activities which are offered to them.**

48. Medical care was provided by one general practitioner who attended the establishment for four hours on Tuesdays and Fridays<sup>29</sup>. Emergency medical care and transfers to hospital, as well as outside consultations, were arranged whenever necessary. In addition, a psychologist visited the establishment two or three times per month.

That said, it is a matter of concern that the nurse's post had been vacant since 2003. As a result, newly-admitted immigration detainees could not benefit from prompt medical screening on days when the general practitioner was not present, and custodial staff were involved in the distribution of medication to immigration detainees.

**The CPT recommends that steps be taken at the Harku Repatriation Centre to ensure that:**

- **the vacant nurse's post is filled without further delay;**
- **all newly-admitted immigration detainees receive medical screening without delay by the doctor or the nurse (reporting to the doctor).**

49. The delegation was informed that a police officer was present during any medical consultations performed outside the Centre. In the CPT's view, such a practice is not acceptable. Medical examinations of persons deprived of their liberty should always be conducted out of the hearing and – unless the doctor requests otherwise – out of the sight of police officers. The Committee recognises that special security measures may be required during medical examinations in specific cases. Other solutions can and must be found in order to reconcile, on the one hand, legitimate security considerations with, on the other hand, the principle of medical confidentiality and the establishment of a genuine doctor-patient relationship.

Further, the CPT has misgivings about the practice of handcuffing immigration detainees whenever they were transported to and from a hospital. In the Committee's view, the use of handcuffs during transportation should always be based on an individual risk assessment.

**The CPT recommends that current practices concerning the presence of police officers during medical consultations and the handcuffing of immigration detainees during their transfer to and from hospitals be reviewed, in the light of the above remarks.**

50. The CPT welcomes the fact that, upon admission, all foreign nationals received written information on their rights (including the right to lodge complaints<sup>30</sup>) and a copy of the internal rules (which were also available in English and Russian, the most frequently spoken languages at the time of the visit).

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<sup>29</sup> Outside working hours, the doctor was on call in the event of emergencies.

<sup>30</sup> Complaints can be addressed to the Director of the Centre and the Head of the Citizenship and Migration Board, as well as to outside bodies such as the courts and the Chancellor of Justice.

51. Finally, the existing arrangements for contacts with the outside world were generally satisfactory. Immigration detainees were allowed to send and receive letters, have visits (twice a week for up to three hours) and make telephone calls, provided they had the financial means to pay for them. **The CPT invites the Estonian authorities to consider the possibility of offering at least one free telephone call per month to those immigration detainees without the financial means to pay for it themselves.**

## C. Prisons

### 1. Preliminary remarks

52. The delegation carried out full visits to Murru and Viljandi Prisons and a targeted visit to Tallinn Prison. The main objectives of the visit to Tallinn Prison were to interview newly-arrived remand prisoners and to review the overall conditions of detention in the establishment. The delegation also went to Tartu Prison to interview remand prisoners who were detained in connection with the April 2007 events (see paragraph 13).

53. The delegation was informed by representatives of the Ministry of Justice that, at the time of the visit, the total number of prisoners being held in Estonian prisons was 4,067, the official capacity being 4,500 places. It was pointed out that the latter capacity was calculated on the basis of 2.5 m<sup>2</sup> of living space per prisoner, in accordance with the Internal Rules of Prison of the Ministry of Justice<sup>31</sup>, but that in practice the situation was somewhat more favourable in most establishments (which offered, as a general rule, some 3 m<sup>2</sup> per prisoner). The CPT wishes to emphasise that these standards do not offer a satisfactory amount of living space. **The Committee therefore recommends that the above-mentioned legal standard be raised as soon as possible, so as to guarantee at least 4 m<sup>2</sup> per prisoner in multiple-occupancy cells, and that official capacities and occupancy levels of cells in Estonian prisons be revised accordingly.**

54. During the visit, the Estonian authorities expressed their determination to reduce the size of the prison population, and provided information on the measures already taken or envisaged to this end. In particular, reference was made to recent amendments to the Penal Code<sup>32</sup>, according to which the scope of non-custodial sanctions and early release (including electronic surveillance) had been extended. Further, a study commissioned by the Ministry of Justice on the factors influencing the size of the prison population was in progress; **the Committee would like to be informed of the results of this study.**

The authorities also provided information on the ongoing construction of new regional prisons throughout Estonia. Following the opening of Tartu Prison in 2002, it was planned that the new prison in Viru would enter into service in Spring 2008. In addition, it was envisaged that the construction of a new prison in Tallinn would commence in the near future, for completion in 2011.

In their letter of 12 September 2007, the Estonian authorities indicated that with the commissioning of the three above-mentioned regional prisons and the resort to various measures to reduce the prison population<sup>33</sup>, it would eventually be possible to close down Murru Prison, the last camp-type prison in Estonia.

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<sup>31</sup> Section 6, paragraph 6.

<sup>32</sup> See, in particular, Sections 75 and 76.

<sup>33</sup> 4,576 persons held (remand and sentenced prisoners) in 2004; 4,565 in 2005; 4,410 in 2006.



The CPT welcomes these developments and **encourages the Estonian authorities to pursue their efforts to combat prison overcrowding and, in so doing, to be guided, inter alia, by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole).**

55. The CPT has already expressed its concern about the fact that a considerable number of remand prisoners, and sometimes sentenced prisoners, are still kept for long periods in police arrest houses which are not suitable for this purpose (see paragraphs 35 to 40). Such prisoners should, as a matter of principle, be held in establishments which are under the responsibility of the Ministry of Justice. In this connection, **reference is made to the recommendation in paragraph 40 that a definitive end be put as soon as possible to the practice of holding remand and sentenced prisoners in police arrest houses.**

56. Murru Prison was opened in 1937 as a camp-type penal colony for adult male convicts in the town of Rummu (some 30 kilometres southwest of Tallinn). With an official capacity of 1,460 places, the prison was accommodating 1,336 prisoners at the time of the visit. Of them, 11 were serving a life sentence and 116 were subject to an “additional security measure” under Section 69 of the Imprisonment Act<sup>34</sup> and were held in two cell-type living sections (Nos. 8 and 9).

Tallinn Prison has already been described in previous visit reports<sup>35</sup>. Since the 2003 visit, the official capacity of the remand blocks (650 places) remained unchanged, while the number of prisoners was slightly higher in 2007 (694, including 53 women, compared to a total of 661 prisoners in 2003).

Viljandi Prison<sup>36</sup> is the only prison for male juvenile<sup>37</sup> convicts in Estonia. With an official capacity of 100 places, it was accommodating 95 prisoners at the time of the visit (including 28 minors, the youngest aged 15). The delegation was informed that the commissioning of Viru Prison, with a section for minors, would entail the complete and final closure of Viljandi Prison not later than 1 July 2008.

## 2. Ill-treatment

57. The delegation received no allegations – nor any other evidence – of physical ill-treatment by staff of inmates in any of the prisons visited. The CPT welcomes this very positive finding.

58. That said, the CPT is very concerned about the frequency and seriousness of allegations of inter-prisoner violence made by prisoners at Murru Prison (such as threats, beatings and sexual abuse).

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<sup>34</sup> Section 69, paragraph 1, reads as follows: “Additional security measures shall be imposed with regard to a prisoner who regularly violates this Act or the internal rules of the prison, damages his or her health or is likely to attempt suicide or escape, and to a prisoner who poses a threat to other persons or the security of the prison. Additional security measures may be imposed for prevention of an aggravated offence.”

<sup>35</sup> CPT/Inf (2005) 6, paragraph 44, and CPT/Inf (2002) 26, paragraph 62.

<sup>36</sup> Viljandi Prison received targeted visits from the CPT in 1997 and 1999.

<sup>37</sup> Only minors between 14 and 18 are admitted, but once admitted they may stay on until the age of 21.

Two incidents in 2006, each of which resulted in the killing of a prisoner by fellow inmates, are an indication of the seriousness of the problem at Murru Prison. In one case, a prisoner was hit on the head with a metal pipe in the prison workshop, while, in the other case, a prisoner was beaten to death in a cell in Section 9, shortly after he had been transferred to that cell by prison officers. According to the Estonian authorities, criminal proceedings concerning both incidents were still pending. **The CPT would like to be informed of the outcome of these proceedings.**

59. The CPT wishes to emphasise once again that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence by inmates against other inmates<sup>38</sup>.

Addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. Consequently, the level of staffing must be sufficient (including at night-time) to enable prison officers to supervise adequately the activities of prisoners and support each other effectively in the exercise of their tasks. Both initial and ongoing training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

60. There were apparent efforts by the management of Murru Prison to group vulnerable prisoners in specific units.

From interviews with staff and the consultation of relevant documents, it also transpired that allegations of inter-prisoner violence were as a rule subject to an internal inquiry. In addition, serious injuries indicative of inter-prisoner violence were investigated by the establishment's security department even in the absence of an explicit allegation by the prisoner concerned. Serious cases were reported to the police. The delegation was informed that, since January 2007, criminal investigations had been initiated into 13 cases of possible inter-prisoner violence (including sexual assault), which were all still pending at the time of the visit. **The CPT would like to be informed of the outcome of the above-mentioned investigations.**

That said, the CPT is very concerned by the extremely low staffing levels throughout the establishment, 91 posts for prison officers being vacant at the time of the visit. By way of example, Section 3-2, which held some 80 prisoners, was supervised by only one prison officer each weekday after 5 p.m. and at weekends. It goes without saying that, given such low staffing levels, it must be extremely difficult to tackle effectively the problem of inter-prisoner violence.

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<sup>38</sup> See also paragraph 72 of the report on the 1997 visit (CPT/Inf (2002) 26).

61. By letter of 12 September 2007, the Estonian authorities informed the CPT that, with a view to combating the problem of inter-prisoner violence at Murru, it was planned to divide up large living sections (such as Sections 2, 4 and 6<sup>39</sup>) into two parts, to intensify video surveillance in the corridors, outdoor areas and in the workshop, to increase the number of prison officers, and to decrease the number of inmates<sup>40</sup>.

The CPT welcomes the above-mentioned plans; **it recommends that the Estonian authorities vigorously pursue their efforts to combat the phenomenon of inter-prisoner violence, in the light of the above remarks. Steps should be taken as a matter of priority to fill the vacant posts for prison officers at Murru Prison. Further, particular attention should be paid to the problem of inter-prisoner violence in the context of initial and in-service training programmes for prison officers in Estonia.**

### 3. Conditions of detention of the general prison population

#### a. material conditions

62. With the exception of Sections 8 and 9, material conditions of detention at Murru Prison were on the whole acceptable<sup>41</sup>.

The detention rooms in all *camp-type living sections* had very good access to natural light and artificial lighting and were equipped with beds, individual bedside cupboards and shelves. Prisoners were also provided with clean bedding and could take a shower every day. However, in several of the communal sanitary facilities, the hygiene conditions left a great deal to be desired, and a number of allegations were received from prisoners that they were not provided with sufficient quantities of personal hygiene products. Further, despite the fact that the prison was operating below its official capacity (see paragraph 56), many detention rooms were overcrowded, with little more than 2 m<sup>2</sup> of living space per prisoner<sup>42</sup>. Fortunately, the effects of overcrowding were somewhat mitigated by an “open door” regime during most of the day within the sections (see paragraph 65).

In the *cell-type living Sections 8 and 9* (including in the “quarantine” unit<sup>43</sup>), material conditions were very poor. Most cells (including the furniture) were dilapidated, poorly ventilated and in a poor state of hygiene (rotten floors, leaking pipes, etc.). Further, some cells in Section 9 had very limited access to natural light.

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<sup>39</sup> At the time of the visit, they were holding 174, 159 and 157 prisoners respectively.

<sup>40</sup> According to the authorities, as of 25 August 2007, the number of prisoners at Murru Prison had been reduced to 1091.

<sup>41</sup> The vast majority of inmates were being held in twelve sections, each comprising numerous detention rooms with four to 14 beds. The total number of beds in each section varied between 29 and 174.

<sup>42</sup> By way of example, rooms measuring some 14 m<sup>2</sup> and 18 m<sup>2</sup> were holding up to seven and eight prisoners respectively.

<sup>43</sup> The unit for new arrivals.

63. In their letter of 12 September 2007, the Estonian authorities informed the CPT that they intended to close down Murru Prison, once all regional prisons have been brought into service (see paragraph 54). The CPT welcomes this plan. Indeed, large-capacity dormitories characteristic of camp-type establishments inevitably imply a lack of privacy for prisoners in their everyday lives. Moreover, the risk of intimidation and violence is high, as is well illustrated by the situation in Murru Prison.

Notwithstanding the plan to close down Murru Prison, **the CPT recommends that immediate steps be taken to improve material conditions of detention in the cell-type living sections of the establishment, in the light of the remarks in paragraph 62.** Further, **action should be taken throughout the prison to improve sanitary and hygiene conditions.**

64. At Tallinn Prison, material conditions in the remand section remained on the whole unchanged since the 2003 visit<sup>44</sup>. Once again, occupancy levels in many cells were too high (e.g. up to six prisoners in a cell measuring some 15 m<sup>2</sup>).

In their letter of 12 September 2007, the Estonian authorities reaffirmed their intention to bring into service a new prison in Tallinn by 2011, which would then replace the existing premises of Tallinn Prison (see paragraph 54). **The CPT would like to receive a detailed plan of the different stages of construction of the prison and a timetable for their full implementation.**

Meanwhile, **efforts should continue to be made to reduce the cell occupancy levels in the existing establishment** (see also paragraph 53).

b. activities

65. At Murru Prison, some 55% of the inmates in the *camp-type living sections* were offered work<sup>45</sup> or were engaged in educational or training activities<sup>46</sup>.

No regular organised activities were offered to the remaining 45% of prisoners in the above-mentioned sections. However, all prisoners in these sections could move freely within the section during the day and had access to large outdoor exercise yards for several hours per day. Further, they could use the establishment's sports facilities twice a week, had access to the prison library and were offered cultural, religious and social activities organised at intervals throughout the year.

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<sup>44</sup> CPT/Inf (2005) 6, paragraph 52.

<sup>45</sup> 200 prisoners were employed by the Estonian Prison Industries on the premises of the prison, and 129 prisoners were engaged in various general services (kitchen/food distribution, cleaning/maintenance, workshop support, laundry, sewing, hairdressing, library).

<sup>46</sup> 124 inmates attended basic or secondary education classes which took place five times per week for five hours (taught in Estonian or in Russian), and 153 inmates were offered vocational training.

66. In contrast, the CPT is very concerned by the situation of the *prisoners subject to an "additional security measure"* who were accommodated in the cell-type living Sections 8 and 9. With the exception of one hour of outdoor exercise per day, the prisoners concerned were provided with no out-of-cell activities whatsoever. Thus, they were locked up in their cells for 23 hours a day, the only occupation being reading, playing board games, listening to the radio or watching television (if they could afford to pay for one). It should be added that the outdoor exercise yards of the two sections were rather small (some 20 m<sup>2</sup>) and were equipped with neither means of rest (such as benches) nor shelter from inclement weather.

In the CPT's opinion, prisoners who are subject to a special security measure should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice regarding activities.

67. The situation was more favourable in the unit for *life-sentenced prisoners* (located in Section 9), where the doors of the cells were open during the daytime. Consequently, the inmates were free to move within their (albeit small) unit and to associate with each other. Inside the unit there was a kitchen with an electric oven and a shower facility to which the prisoners had unrestricted access. Further, they could go to the library and the prison chapel once a week.

The delegation was pleased to learn that two life-sentenced prisoners were accommodated in camp-type living sections together with other sentenced prisoners, one of them being involved in domestic duties (i.e. cleaning, food distribution, etc.)<sup>47</sup>. The CPT welcomes such measures to integrate life-sentenced prisoners with the mainstream prison population.

In their letter of 12 September 2007, the Estonian authorities informed the CPT that a programme for the life-sentenced prisoners in Murru Prison "has been worked out; they will be engaged in painting souvenirs. The rooms have been furnished and now preparations are made to start the program." The CPT welcomes these steps and **would like to receive updated information on the implementation of the above-mentioned programme.**

68. By letter of 12 September 2007, the Estonian authorities informed the Committee that the number of inmates at Murru Prison receiving general education had been increased from 124 to some 200 and the number of those receiving vocational training from 153 to 221.

This is a welcome development. However, vigorous additional steps are required to render the situation acceptable, especially for prisoners held in Sections 8 and 9.

69. At Tallinn Prison, no progress had been made in providing remand prisoners with purposeful activities, despite the recommendations made by the Committee after the two previous visits to the establishment in 1997 and 2003. The vast majority of prisoners continued to be confined to their cells for 23 hours a day without being offered any out-of-cell activities, apart from one hour of daily outdoor exercise.

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<sup>47</sup> One of the lifers in Section 9 was engaged in the same kind of work.

70. **The CPT calls upon the Estonian authorities to take steps to ensure that all prisoners at Murru and Tallinn Prisons have access to an appropriate range of out-of-cell activities, such as work, education, sports and recreational activities.**

Further, steps should be taken at Murru to equip the outdoor exercise yards of Sections Nos. 8 and 9 with means of rest and protection against inclement weather.

#### **4. Conditions of detention of young prisoners at Viljandi Prison**

71. Material conditions of detention at Viljandi Prison were generally very poor. Indeed, many of the cells and of the sanitary facilities were in an advanced state of dilapidation<sup>48</sup>.

However, given the fact that the establishment is due to be closed down shortly, the CPT will refrain from making recommendations on this subject.

72. The delegation gained a favourable impression of the regime activities offered to young prisoners: compulsory education; approved vocational training courses (wood- and metal-work, bricklaying and furniture restoration); activities of an instructional nature (carpet-making; introduction to information technology; driving instruction, etc.) or of a social nature<sup>49</sup>.

As regards sports activities, a weight-lifting room was available for prisoners' use from Monday to Friday from 3 to 7 p.m. (and on request at weekends), as was a gym once a week (at the same times) and a large sports field (during summer).

However, according to the information supplied to the delegation by the management and staff of the prison, about one-third of the inmates, six or so being minors, had neither regular educational activity nor work<sup>50</sup>. Moreover, certain activities had been discontinued, following the departure of staff members who were not replaced (for example the handcraft workshop at the beginning of 2007).

73. In their letter of 12 September 2007, the Estonian authorities indicated that all prisoners would now be accommodated on the ground floor, where the material conditions were better, and that some basic maintenance work was being carried out. Moreover, from 1 September 2007 onwards, Viljandi Prison held only the minors enrolled in school and the adults (five) who were studying or working there.

The CPT takes note of the information provided and **encourages the authorities to pursue their plan to close down Viljandi Prison as quickly as possible.**

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<sup>48</sup> In addition, a number of prisoners complained that in winter the buildings were not adequately heated.

<sup>49</sup> Group activities aimed at self awareness, emotional control, and preparation for release (e.g. "anger containment" workshop; music therapy).

<sup>50</sup> On the date of the visit, 39 prisoners (including 21 minors) were taking compulsory education courses; 27 (all adults) were receiving vocational training, and four had paid work in the establishment (cleaning and maintenance).

In the interim, **steps should be taken at Viljandi Prison to ensure that young prisoners are held in decent conditions (in particular, as regards hygiene, lighting and, when necessary, heating).**

74. More generally, the CPT wishes to emphasise that the essentials of a custodial environment for minors (whether on remand or sentenced) are accommodation in small units, a suitable evaluation system for ensuring the prisoners' satisfactory distribution in these units, a multidisciplinary team (preferably comprising persons of both genders), selected and specially trained to deal with minors, a comprehensive educational programme for those who have not yet reached the legal school-leaving age, with emphasis on reading, writing and numeracy, additional coaching and vocational training for older minors, a sports programme and other leisure activities.

**The CPT trusts that the Estonian authorities will take the necessary steps to ensure that all the above-mentioned requirements are fully taken into account in the new section for juvenile prisoners at Viru Prison.**

## **5. Health care<sup>51</sup>**

75. Health-care staff at Murru Prison included two general practitioners (present on working days between 8 a.m. and 4.30 p.m.), a full-time dentist and ten full-time nurses (four of them present during day-shifts and two at night and weekends).

The posts of a psychiatrist and radiologist were vacant. Temporarily, the establishment was attended by an outside psychiatrist (twice a week) and a radiologist (three to four times a week). Other specialist doctors (surgeon, ophthalmologist, ear, nose and throat specialist and dermatologist) visited the prison only once a month.

In the CPT's view, the current health-care staff resources are not sufficient to meet the needs of prisoners in an establishment which accommodates more than 1,300 prisoners and also has an infirmary. The delegation heard numerous complaints from prisoners about long delays in receiving medical care. The situation appeared to be particularly precarious with regard to psychiatric care. Given the large number of prisoners suffering from psychiatric disorders (some 200 at the time of the visit, including some prisoners with serious psychiatric disorders) and the prevalence of drug addiction in the prison, the part-time psychiatrist was not in a position to provide adequate psychiatric care to all prisoners in need of such treatment<sup>52</sup>. Further, according to health-care staff, it was, on occasion, not possible to arrange for medical consultations for prisoners whose state of health required specialist care. As a result, the state of health of these prisoners sometimes deteriorated to the point where the emergency services had to be called.

**The CPT recommends that the Estonian authorities review the health-care staff resources at Murru Prison, in the light of the above remarks. Steps should be taken as a matter of priority to fill the vacant post of a psychiatrist. Further, the establishment should benefit from at least one additional full-time general practitioner, and the nursing staff complement should be substantially reinforced.**

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<sup>51</sup> Given the specific objectives of the targeted visits to Tallinn and Tartu Prisons (see paragraph 52) and the imminent closure of Viljandi Prison, this section focuses primarily on Murru Prison.

<sup>52</sup> Usually, some 20 psychiatric consultations were held by the psychiatrist during each visit (thus, on average, ten minutes was spent per prisoner).

76. The delegation observed that, in Section 9, the distribution of medication was carried out by prison officers, apparently due to the fact that nurses were afraid to enter that section. **Steps should be taken to ensure that the distribution of prescribed medication is always carried out by qualified health-care staff.**

77. Health-care facilities at Murru Prison were of an adequate standard. They extended over two storeys of a recently renovated building and comprised several rooms for medical consultations and procedures (including a dentist room), a laboratory and an X-ray facility, as well as a 14-bed infirmary.

78. Medical screening of newly-arrived prisoners was usually carried out within 24 hours of admission by a doctor (at Tallinn and Tartu Prisons) or a nurse reporting to a doctor (at Murru and Viljandi<sup>53</sup> Prisons). Blood tests for transmissible diseases were carried out with the prisoner's consent, and fluorography was performed. At Tallinn Prison, incoming prisoners were also screened by a psychiatrist.

Medical files appeared, on the whole, to be well kept at Murru, Tallinn and Viljandi Prisons. Further, a special register was kept in all establishments by the health-care unit for injuries observed by doctors (on admission or whilst in prison). In most cases, injuries were recorded in detail.

However, at Tartu Prison, medical records often contained little or no information about the statements made by the prisoners concerned and never included the doctor's conclusion as to the possible causes of the injuries observed (see paragraph 32).

Therefore, **the CPT must recommend once again that steps be taken at Tartu Prison and, if appropriate, in other prisons in Estonia, to ensure that the record drawn up after a medical examination of a prisoner (whether newly-arrived or not) contains:**

- (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/her;**
- (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.**

79. The CPT welcomes the fact that, at Murru Prison, basic information on the prevention of transmissible diseases (such as tuberculosis, syphilis, AIDS and hepatitis) and on other health-related issues was provided by posters displayed in the health-care unit and information leaflets (distributed both in Estonian and Russian).

80. At Murru Prison, the delegation gained the impression that, despite the large number of drug-addicted prisoners, the establishment had no comprehensive policy to combat the problem of drug abuse (including the treatment of drug addiction). **The CPT encourages the Estonian authorities to develop such a policy at Murru Prison and, if appropriate, in other prisons in Estonia.**

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<sup>53</sup> At Viljandi, newly-arrived prisoners were also seen by the doctor, usually a few days after admission.



81. Finally, the CPT would like to express its serious concern about the practice of forcible urine tests at Murru and Tallinn Prisons. The delegation was informed that prisoners who were suspected of drug abuse but who refused to give a urine sample were cuffed by the wrists and ankles to a bed, and health-care staff forcibly inserted a catheter in order to drain a urine sample for screening purposes. The whole procedure was videotaped<sup>54</sup>.

In the Committee's opinion, carrying out such an intrusive intervention by force and without a medical indication is unacceptable and could well be considered as inhuman and degrading, also in the light of the potential health risks for the person concerned. Moreover, resort to such a measure would appear to be unnecessary from a security standpoint, since prisoners who refuse a drug test could be treated in the same way as those who test positive on the basis of a voluntary test. **The CPT recommends that an immediate end be put to the practice of forcible urine tests in all prisons in Estonia.**

## 6. Other issues

### a. contact with the outside world

82. According to the relevant legal provisions, sentenced and remand prisoners are entitled to send and receive letters<sup>55</sup>, receive visits<sup>56</sup> (at least one short-term visit per month for up to three hours and additionally, in the case of sentenced prisoners, two long-term visits per year for up to three days), and make telephone calls once a week<sup>57</sup>.

The information gathered during the visit showed that the above-mentioned rules were generally respected at both Murru and Viljandi Prisons. Visits were usually granted for two to three hours per month.

However, the CPT has misgivings about the fact that prisoners at Viljandi Prison could have short-term visits only under closed conditions (i.e. via interphone through a glass partition). **The CPT would like to receive confirmation that, in the new unit for juvenile prisoners at Viru Prison, short-term visits will be allowed, as a rule, under open conditions.**

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<sup>54</sup> This procedure was apparently carried out in accordance with the instructions of the central prison administration.

<sup>55</sup> Sections 28 and 29 of the Imprisonment Act and Sections 46<sup>1</sup> to 50 of the Internal Rules of Prison.

<sup>56</sup> Sections 24 to 27 of the Imprisonment Act and Sections 31 to 46 of the Internal Rules of Prison. As concerns juveniles, the number or duration of visits can be increased "with a view to achieving the objectives sought by imposition of the prison sentence" (Section 84 of the Imprisonment Act).

<sup>57</sup> Sections 28 and 29 of the Imprisonment Act and Sections 51 and 52 of the Internal Rules of Prison.

b. discipline

83. As regards disciplinary sanctions, sentenced prisoners who commit violations against prison discipline 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). Remand prisoners 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).

In the CPT's opinion, the maximum period of placement in a punishment cell for adult prisoners is too high, in particular if such placement entails solitary confinement. **The Committee recommends that the maximum period of placement in a punishment cell in respect of adult sentenced prisoners be substantially reduced and that consideration be given to reducing the maximum period in respect of adult remand prisoners.**

84. The CPT is also concerned by the maximum period of placement in a punishment cell for minors, and even more so if such placement entails solitary confinement. As the Committee already indicated in the report on the 1999 visit<sup>58</sup>, the placement of juveniles in conditions resembling solitary confinement is a measure which can compromise their physical and/or mental integrity; consequently, resort to such a sanction should be regarded as an exceptional measure and used for only very short periods.

**The CPT recommends that the maximum period of placement in a punishment cell in respect of minors be substantially reduced. Further, whenever juveniles are subject to such a sanction, they should be guaranteed appropriate human contact.**

85. Disciplinary procedures were on the whole carried out in accordance with the relevant provisions of the Imprisonment Act<sup>59</sup> and the Internal Rules of Prison<sup>60</sup>. Decisions on the imposition of a disciplinary punishment were taken by the Governor, on the basis of a recommendation made by the prison officer who had conducted an internal inquiry and taken a statement from the prisoner concerned.

However, some shortcomings were identified by the delegation. In particular, prisoners facing disciplinary charges had no right to be heard in person by the Governor before a decision was taken on the matter in any of the establishments visited. Further, at Murru Prison, prisoners did not always receive a copy of the decision (which contained information on the reasons for the decision and information on the avenues for lodging an appeal).

**The CPT recommends that the above-mentioned shortcomings be remedied (if necessary, by amending the relevant legal provisions).**

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<sup>58</sup> CPT/Inf (2002) 28, paragraph 36.

<sup>59</sup> Sections 64 and 101.

<sup>60</sup> Sections 97 to 99.

86. Material conditions of detention in disciplinary punishment cells at Murru Prison were on the whole acceptable and do not call for any particular comments.<sup>61</sup>

Prisoners placed in a punishment cell were entitled to one hour of outdoor exercise per day. They were also allowed to receive short-term visits, send and receive letters and make telephone calls.

That said, it is regrettable that prisoners' access to reading material was still being restricted whilst they were in a punishment cell, despite the recommendation made by the CPT in the report on the 2003 visit<sup>62</sup>. They were only allowed to read the Bible, legislative acts and textbooks<sup>63</sup>. **The CPT reiterates its recommendation that all prisoners placed in a punishment cell be allowed access to general reading matter.**

c. complaints and inspection procedures

87. At both Murru and Viljandi Prisons, prisoners were generally well informed about the avenues of complaint available (both internally and to outside bodies<sup>64</sup>), and the complaints mechanisms appeared to be operating satisfactorily.

88. As already indicated in the report on the 2003 visit<sup>65</sup>, the Imprisonment Act provides for a system of prison committees operating at each prison and made up of representatives of civil society.

However, during the 2007 visit, it became apparent that this system was still not operational in any prison in Estonia. **The CPT recommends that the Estonian authorities take the necessary steps to render the prison committees fully operational throughout the entire prison system.**

d. means of restraint

89. On the occasion of its targeted visit to Tartu Prison (to interview prisoners who had been detained in connection with the April 2007 events, see paragraph 13), the delegation reviewed the measures taken by the Estonian authorities in the light of the recommendations made by the CPT after the 2003 visit concerning the use of the establishment's restraining cells (Nos. 1001 to 1004)<sup>66</sup>.

The CPT welcomes the fact that the metal rings which had previously been anchored to the platform sides in the above-mentioned cells, in order to secure a person's hands and feet while lying spread-eagled on his back, have been removed.

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<sup>61</sup> The delegation did not visit the disciplinary punishment cells at Viljandi Prison.

<sup>62</sup> CPT/Inf (2005) 6, paragraph 81.

<sup>63</sup> Section 60 of the Internal Rules of Prison.

<sup>64</sup> According to Section 29, paragraph 4, of the Imprisonment Act, prisoners may send letters on a confidential basis to their lawyer, the prosecutor, the court, the Chancellor of Justice or the Ministry of Justice.

<sup>65</sup> CPT/Inf (2005) 6, paragraph 83.

<sup>66</sup> None of the other prisons visited had special equipment to immobilise agitated prisoners.

90. At the end of 2006, cell No. 1001 had been equipped with a special restraint bed (covered with a mattress) for five-point fixation (wrists, ankles, abdomen) of agitated prisoners with cloth straps. Due to the lack of a special register, the delegation was not in the position to establish the precise frequency and duration of the resort to this type of physical restraint<sup>67</sup>.

In the CPT's view, every resort to the physical restraint of a prisoner should be recorded in a special register (as well as in the individual file of the prisoner concerned). The information recorded should include the date and time of the beginning and end of the measure, 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 inmates or staff.

**The CPT recommends that a special register on resort to means of physical restraint be introduced at Tartu Prison and, if appropriate, in other prisons in Estonia, in the light of the preceding remarks.**

91. Under the Imprisonment Act, the decision to apply means of restraint must be taken by the prison governor (except in emergencies), and such means may only be applied for a maximum period of twelve hours<sup>68</sup>. The Act does not expressly refer to beds equipped with fixation points, nor does it specify the procedure for their use. The delegation was unable to obtain precise and comprehensive information on the subject during the visit.

**The CPT would like to receive detailed information on the procedure in force regarding the use of the bed equipped with fixation points in cell No. 1001 in Tartu Prison and, in particular, on the circumstances in which this bed is used, the arrangements for the involvement of a doctor and the manner in which the monitoring of immobilised inmates is organised. The Committee would also like to receive information on the training of staff required to use this equipment.**

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<sup>67</sup> According to staff, the restraint bed had only rarely been used and only for short periods.

<sup>68</sup> Sections 69, paragraph 2 (5), and 70 of the Imprisonment Act.

## D. Psychiatric/social welfare establishments

### 1. Preliminary remarks

92. The legal framework governing involuntary placement in a psychiatric/social welfare institution has been the subject of numerous amendments, which reflect various recommendations made by the CPT after the 2003 visit<sup>69</sup>. In particular, a chapter on “placement of persons in closed institutions” has been incorporated into the Code of Civil Procedure, and several provisions of the Mental Health Act and the Social Welfare Act have been amended. Some changes have also been made to the procedure for involuntary forensic placement. The relevant legal provisions are examined later in this section.

In the course of the visit, the delegation was informed that further amendments to the Code of Civil Procedure and the Mental Health Act were planned. **The CPT would like to be informed of the progress made in this regard, and receive a copy of the new provisions, once adopted.**

93. The delegation visited, for the first time, the Viljandi Hospital Foundation and the Vöisiku Care Home. Both establishments are under the authority of the Ministry of Social Affairs.

94. The Viljandi Hospital Foundation, opened in 1897, is situated on large premises planted with trees, near the town of Viljandi. The Foundation is administratively attached to Viljandi General Hospital, and is the only psychiatric establishment in Estonia (with the exception of a few beds in Tartu) which admits forensic patients in respect of whom involuntary placement has been ordered by a court under Section 86 of the Penal Code. Further, it is the only hospital in the country which accommodates tuberculosis patients on an involuntary basis<sup>70</sup>. In total, there are four closed departments for adult patients<sup>71</sup>: an acute psychiatric department, a department for chronic psychiatric patients, a forensic psychiatric department<sup>72</sup> and a department for tuberculosis patients. At the time of the visit, the Foundation was operating at full capacity (221 patients)<sup>73</sup>.

The Vöisiku Care Home, a complex of several buildings in extensive grounds about 45 kilometres north east of Viljandi, is administered by the district government of Jõgevamaa. It has an official capacity of 385 places and mainly serves as a long-term care institution for adult residents (male and female) who suffer from a range of mental disabilities of varying degrees (sometimes combined with physical disabilities). The main building, a former manor, houses three units (all operating at full capacity) in which residents receive continuous care around the clock, the level of which depends on the seriousness of their disabilities: the “24-hour care” unit (242 residents); the “24-hour care with reinforced supervision” unit (33 residents); and the “24-hour care with reinforced assistance” unit (28 residents suffering from the most severe mental and/or physical disabilities)<sup>74</sup>.

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<sup>69</sup> See CPT/Inf (2005) 6, paragraph 114.

<sup>70</sup> Persons suffering from tuberculosis may be placed in a hospital by court order for up to 182 days (a period of time that cannot be extended). The placement procedure is regulated by the Law on the Prevention and Control of Contagious Diseases and Sections 533 *et seq.* of the Code of Civil Procedure. At the time of the visit, 12 of the 32 tuberculosis patients were being held in the Viljandi Hospital Foundation on an involuntary basis.

<sup>71</sup> The Foundation also has a closed department for child psychiatry (with a capacity of ten beds), which was not visited by the delegation.

<sup>72</sup> The forensic department (official capacity: 80 beds) was accommodating 85 patients at the time of the visit.

<sup>73</sup> At the end of the 1990s, the official capacity was three times higher.

<sup>74</sup> The Care Home also has three open units (some of them outside Vöisiku), which were not visited by the delegation.

## 2. Ill-treatment

95. The delegation received no allegations of deliberate physical ill-treatment of patients/residents by staff – and gathered no other evidence of such treatment – at the Viljandi Hospital Foundation and the Võisiku Care Home. On the contrary, in both establishments, staff appeared to be dedicated to their task and mindful of the needs of the patients/residents.

However, at Viljandi, some patients complained that orderlies used disrespectful or even contemptuous language. **The CPT recommends that the management of the Viljandi Hospital Foundation recall to the staff that the verbal abuse of patients is not acceptable.**

## 3. Living conditions

96. The CPT recalls that 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 other words, 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. Attention should also be given to the decoration of patients'/residents' rooms and recreation areas, in order to offer patients/residents a stimulating therapeutic environment.

97. At the Viljandi Hospital Foundation, living conditions were overall of a high standard in the acute psychiatric department, the forensic psychiatric department and the department for tuberculosis patients. Patients' rooms were spacious, adequately furnished and clean. The only deficiency observed was the malfunctioning of the ventilation system in the forensic department, which was planned to be repaired by the end of 2007. **The CPT would like to receive confirmation that these works have been completed.**

98. In contrast, living conditions in the department for chronic psychiatric patients (male and female wards) were generally poor (e.g. dilapidated sanitary facilities, broken furniture). The delegation was informed that the above-mentioned department would be renovated shortly, and, in their letter of 12 September 2007, the Estonian authorities confirmed that the renovation work had been completed. The CPT welcomes this development.

99. It should be added that, in all the departments visited, many patients remained in their pyjamas all day. In the acute department, the delegation was informed by staff that patients were not allowed to wear their own clothes. Such a situation is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The CPT recommends that patients be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments.**

100. The CPT is concerned by the fact that patients in the acute department were not allowed to take any outdoor exercise, although the department had its own exercise yard. Further, in the forensic department and the department for chronic patients, a number of patients claimed that, on occasion, they were allowed to go outside for no more than thirty minutes a day, or not at all, in particular when the weather was poor or the number of patients wishing to go out was considered by staff to be too small. **The CPT recommends that steps be taken to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing.**

101. The situation as regards outdoor exercise was better in the tuberculosis department, where patients were offered daily outdoor exercise once (and, weather permitting, twice) for about two hours. However, there were no other activities. Such a state of affairs is all the more unsatisfactory, bearing in mind that patients were being held in that department on a involuntary basis for up to 182 days.

In their letter of 12 September 2007 the Estonian authorities indicated that plans were being made to offer activities to tuberculosis patients. This is a welcome development. **The CPT would like to receive information on the programme of activities offered to patients in the tuberculosis department.**

102. At the Võisiku Care Home, living conditions were excellent in the recently renovated “24-hour care with reinforced assistance” unit. All the rooms (with one to three beds) were spacious, newly furnished, well-lit and pleasantly decorated. Further, all the premises were extremely clean.

In contrast, living conditions were rather poor in the “24-hour care with reinforced supervision” and the “24-hour care” units (e.g. sanitary facilities were in an advanced state of dilapidation). The delegation was informed that the former unit would soon be transferred to another, newly renovated floor of Building 3, and that the latter would be refurbished in 2008/2009. The CPT welcomes these developments and **would like to receive detailed information on the progress made in implementing the above-mentioned renovation plans.**

103. In each of the three above-mentioned units, residents had ready access to adequately furnished and pleasantly decorated recreation rooms/areas. Further, all residents whose state of health permitted it had the possibility of taking outdoor exercise on a daily basis.

104. Finally, in both establishments visited, many patients/residents had no lockable space in which to store their personal belongings. **The CPT invites the Estonian authorities to remedy this shortcoming.**

#### 4. Treatment

105. Psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient, indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. Further, the treatment should involve a wide range of therapeutic, rehabilitative and recreational activities, such as occupational therapy, group therapy, individual psychotherapy, art, music and sports.

106. At the Viljandi Hospital Foundation, the treatment provided to *psychiatric patients* was, to a large extent, based on pharmacotherapy. The supply of medicine was adequate and did not pose any problem.

107. As regards other forms of treatment, the situation varied from one department to another. In the forensic department, a range of therapeutic, rehabilitative and recreational activities (e.g. art, music, woodwork, cooking, gardening, and outings such as shopping in town) were offered to patients<sup>75</sup>. In addition, group therapy sessions (with elements focusing, inter alia, on making patients aware of their condition, the need for treatment and the risks of addiction) were organised by a psychologist twice a week<sup>76</sup>. Each patient's situation was discussed every six months by a multidisciplinary group including the therapist in charge of the activities, nurses, orderlies and the social worker.

The situation was much less satisfactory in the department for chronic psychiatric patients. Only keep-fit sessions (lasting about 20 minutes) and handiwork sessions (lasting 60 minutes) were held three or four times a week. These were clearly recreational activities in which patients took part if they so wished. In practice, participation was limited to a small number of patients, and the vast majority of them spent their days in the ward's corridors with nothing to do.

In the acute department<sup>77</sup>, patients were offered no activities at all, not even outdoor exercise (see paragraph 100).

108. In their letter of 12 September 2007 the Estonian authorities indicated that “[a]ctivities for chronic patients are mostly of recreational nature, however everyday life skills are developed and practiced as well (e.g. shopping, using bank services, self service, personal hygiene, using phone). Additional occupational therapy rooms have been taken into use to offer more possibilities for the chronic patients”. In the CPT's view, these are first steps in the right direction.

**The CPT recommends that the Estonian authorities pursue their efforts to provide psychiatric patients at the Viljandi Hospital Foundation (especially in the chronic and forensic departments) with more comprehensive and individualised care, in the light of the remarks made in paragraph 105.**

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<sup>75</sup> No information could be provided to the delegation as to the number of patients taking part in the above-mentioned activities.

<sup>76</sup> Ten patients per week were attending the group therapy sessions.

<sup>77</sup> At the time of the visit, the acute department was accommodating 16 patients: one patient had been there for nearly two months, and five for between two to four weeks.



109. The CPT welcomes the fact that the Viljandi Hospital Foundation has drawn up a document entitled “patient information and consent”. Under the terms of this document, which lists patients’ rights and obligations, patients are entitled to refuse the treatment offered to them and withdraw the consent they have previously given. Patients were usually asked to sign this form on admission. In the absence of the patient’s signature, the doctor in attendance or the duty doctor certified (on the same form) that he/she had “informed the patient or his/her representative in accordance with Sections 764 to 766 of the Obligations Act”<sup>78</sup>.

However, the delegation gained the impression that in practice, for the staff, admission on an involuntary basis allowed them to provide treatment to the patient without his/her consent.

**The CPT reiterates its recommendation that steps be taken at Viljandi Hospital Foundation (as well as in other psychiatric establishments in Estonia) to ensure that all competent patients are placed in a position to give their informed consent to treatment.** In this connection, the Committee wishes to stress that whenever consent to treatment is given by a patient upon admission, the patient concerned should continuously be kept informed of the treatment applied to him/her and placed in a position to withdraw his/her consent at any time.

110. The tuberculosis treatment administered to patients in the *tuberculosis department* does not call for any particular comment. The supply of medicine was adequate and the treatment was monitored on an ongoing basis. However, the delegation was informed that nurses sometimes allowed patients not to take the DOTS treatment (“direct observation treatment survey”) in their presence. **Steps should be taken to remedy this shortcoming.**

111. In the tuberculosis department, patients were usually allocated to separate wards, depending on their bacteriological “status” (multiresistant or not) and their potential contagiousness (expectoration containing Koch’s bacillus or not – “positive” or “negative”).

However, due to the psychiatric profile of some patients and the limited number of places available in the department, it was not always possible to separate patients according to the above-mentioned criteria. By way of example, multiresistant and non-multiresistant patients and “positive” and “negative” patients were being accommodated together in ward No. 2 (although in different rooms). According to the chief doctor, this problem had been brought to the attention of the hospital management, but no solution had as yet been found. **The CPT recommends that the Estonian authorities examine this question as a matter of priority, with a view to preventing the infection of patients by other patients.**

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<sup>78</sup> Section 766 of the Obligations Act reads as follows: “1. The care provider shall inform the patient of the results of the examination, of his/her state of health, of any possible illness and its evolution, of the nature and purpose of the health care provided, of the risks and effects associated with this care and of any other necessary and available care. At the patient’s request, the care provider shall provide the above information in writing.”

112. At the Võisiku Care Home, access to appropriate medication did not pose any problem, and the delegation found no indication of excessive use of psychotropic medication.

The delegation was impressed by the workshops and rehabilitative activities available<sup>79</sup>. However, there were no individual treatment plans. Further, it was difficult to ascertain which residents were actually taking part regularly in the above-mentioned activities. The delegation gained the impression that such treatment was only being offered to a minority of residents in the units visited. **The CPT recommends that steps be taken at the Võisiku Care Home to ensure that all residents receive more individualised care and benefit from adequate psychosocial and occupational therapeutic activities, according to their mental capacity and physical mobility.**

113. Finally, the manner in which medical files were kept at the Võisiku Care Home left much to be desired. Their content was, with a few exceptions, rudimentary and incomplete<sup>80</sup>. **The CPT recommends that this shortcoming be remedied.**

## 5. Staff

114. Staff resources should be adequate in terms of numbers, categories of staff (psychiatrists, general practitioners, nurses, psychologists, occupational therapists, social workers, etc.), and experience and training. Deficiencies in staff resources will often seriously undermine attempts to offer activities; further, they can lead to high-risk situations for patients, notwithstanding the good intentions and genuine efforts of the staff.

115. At the Viljandi Hospital Foundation, the number of medical staff can be considered to be generally adequate in the departments visited.

However, nursing staffing levels were insufficient to provide adequate care, assistance and supervision, especially in the department for chronic psychiatric patients<sup>81</sup>, the acute psychiatric department<sup>82</sup> and the forensic department<sup>83</sup>. As a result, there was a tendency to transfer certain tasks, which ought to be the responsibility of health-care staff, to orderlies, in particular the immobilisation of patients by means of restraint (see paragraph 119). **The CPT recommends that the number of nursing staff be substantially increased in the above-mentioned departments.**

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<sup>79</sup> There were workshops for sewing, painting and carpet-weaving, a library, a room with computers, two music rooms, a sports room, etc.

<sup>80</sup> By way of example, prescriptions and the results of blood tests were missing; and in the file of one patient who had been hospitalised in Tartu in March 2007 (after jumping out of the window of his room at Võisiku), no doctor's notes had been recorded since October 2006.

<sup>81</sup> For 51 patients, there were three nurses during the day and two at night (assisted by six orderlies during the day and four at night).

<sup>82</sup> For 23 beds (with 16 patients hospitalised at the time of the visit), there were two nurses during the day and one at night (assisted by two orderlies around the clock).

<sup>83</sup> For 85 patients, there were four nurses during the day and two at night (assisted by seven or eight orderlies during the day and five at night).

116. As regards orderlies, the delegation was informed that they usually received a basic training of three to five days, and in-service training of one to three days every two years. However, a number of orderlies had thus far received no training at all. **The CPT recommends that steps be taken to ensure that basic training is provided to all orderlies at the Viljandi Hospital Foundation.** Further, **the Committee would like to receive detailed information on the in-service training offered to orderlies since January 2007 (content; duration; number of participants; etc.).**

117. At the Võisiku Care Home, staff involved in residents' care comprised ten full-time nurses (including the head nurse)<sup>84</sup> and approximately 80 "activity instructors" (*tegevusjuhendaja*). A psychiatrist visited the care home for half a day twice a week. In the past, a general practitioner had visited the care home on a weekly basis. However, since January 2007, he no longer went to the establishment; instead residents in need of medical care were accompanied (usually by the head nurse) to the surgery of the general practitioner or, if necessary, to specialist doctors. In emergencies, an ambulance was called.

In the CPT's view, the current staff arrangements are insufficient to provide appropriate somatic and psychiatric care for almost 400 residents, the majority of whom are suffering from severe mental disorders<sup>85</sup>. Further, the regular presence of a general practitioner and the increased presence of a psychiatrist are indispensable for ensuring proper supervision of all treatment activities provided in the care home.

**The CPT recommends that immediate steps be taken at the Võisiku Care Home to:**

- **substantially increase the number of nursing staff;**
- **increase the psychiatrist's weekly working hours;**
- **reintroduce the regular presence (at least once a week) of a general practitioner.**

## **6. Means of restraint and seclusion**

118. In a 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 it clear that initial attempts to restrain agitated or violent patients/residents 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 mechanical restraint may 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 or to compensate for shortages of staff.

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<sup>84</sup> Four nurses were present during the day (two on weekends) and only one during night shifts.

<sup>85</sup> Approximately, two-thirds of the residents received pharmacotherapy on a continuous basis (including, in a number of cases, neuroleptics).

Staff must be trained in the use of restraint equipment. Such training should not only focus on instructing staff on to how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient/resident and that they know how to care for a restrained person.

Further, patients/residents subject to means of mechanical restraint should always have their mental and physical state continuously and directly monitored by a member of the health-care staff, in order that the therapeutic alliance be maintained and assistance be provided. Such assistance may include escorting the patient/resident to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping him/her to take food or drink.

Finally, every instance of restraint of a patient/resident (manual control, mechanical restraint, seclusion) and the forced administration of psychotropic medication should be recorded in a specific register established for this purpose (as well as in the patient's/resident'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 means and/or medication used, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients/residents or staff. This will greatly facilitate the management of such incidents and give an oversight as to the frequency of their occurrence.

119. At the Viljandi Hospital Foundation, there were observation rooms for the seclusion and/or physical restraint of patients (four- or five-point fixation, straitjackets) in all psychiatric departments visited. According to the hospital's "guidelines for the use of means of restraint", the decision to resort to means of restraint or seclusion has to be taken by a doctor. The guidelines also state that only health-care staff who have received appropriate training are allowed to apply means of mechanical restraint (under the supervision of the doctor who ordered them), and that patients subject to mechanical restraint and/or seclusion must be constantly monitored by health-care staff. Further, any resort to means of restraint or seclusion should be recorded on a special form (to be included in the patient's medical file).

From the information gathered by the delegation it transpired that, in practice, decisions to apply means of restraint were usually taken by a doctor. However, it is a matter of grave concern that such decisions were often implemented by orderlies who had no training for this purpose. Further, in the department for chronic psychiatric patients, the monitoring of patients under restraint was limited to very irregular checks through the spy-hole in the door<sup>86</sup>. In several departments, the recording of the use of means of restraint also left much to be desired, the special form being completed only partly<sup>87</sup>, if at all.

**The CPT recommends that steps be taken at the Viljandi Hospital Foundation and, if appropriate, in other psychiatric hospitals in Estonia, to ensure that means of restraint are only applied by trained health-care staff (supported, if necessary, by orderlies) and that the supervision of patients under restraint is brought into line with the requirements set out in paragraph 118.**

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<sup>86</sup> In the acute psychiatric department and the forensic psychiatric department, patients placed in the observation rooms were (visually) monitored by nursing staff in an adjacent room, through a glass panel.

<sup>87</sup> For instance, the name and signature of the doctor who had ordered the measure were missing.

120. At the Võisiku Care Home, instruments of mechanical restraint were never used. Agitated residents were usually placed in a seclusion room, pending their transfer to a psychiatric hospital. Two seclusion rooms were located in the medical unit and the “24-hour care with reinforced assistance” unit respectively. They were specially designed for the placement of agitated residents and had recently been refurbished; they do not call for any special comment.

However, the same cannot be said of most of the seclusion rooms in the “24-hour care” and “24-hour care with reinforced supervision” units. These rooms were entirely unsuited for use as seclusion rooms (they were in a poor state of repair, and equipped with dangerous fixtures such as bars on the windows, etc.). The delegation was informed that it was planned to take these rooms out of service. **The CPT would like to receive confirmation that this plan has been implemented.**

121. According to the relevant legislation<sup>88</sup>, the decision to place a resident in seclusion must be taken by the Director of the establishment (or an employee who must immediately inform the Director); the emergency medical services must be contacted immediately, and placement in seclusion is authorised only until those services arrive (and may not exceed 24 hours); and the resident concerned must be constantly monitored by an employee of the establishment.

However, as far as the delegation could ascertain, the decision to place a resident in seclusion was in practice often taken by an “activity instructor”, who did not always consult the management or health-care staff on the subject. Further, residents in seclusion were not constantly monitored by a member of staff. **The CPT recommends that these deficiencies be remedied without delay.**

122. At Viljandi and Võisiku, there was no specific register for recording the use of means of restraint and seclusion. **The CPT recommends that such a register be established in both establishments, taking into account the criteria set out in paragraph 118.**

## 7. Safeguards

### a. initial placement order and discharge

123. 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 external 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 reviewed by a judicial authority.

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<sup>88</sup> Section 20 of the Social Welfare Act and Section 4 of Instruction No. 82 of the Minister for Social Affairs dated 30 May 2002 (“Procedure for Implementation of Restrictions in Social Welfare Institutions”).

124. Involuntary placement of a civil nature in a psychiatric hospital is regulated by the Code of Civil Procedure<sup>89</sup> and the Mental Health Act<sup>90</sup> (MHA), as amended in 2005 and 2006.

125. With the above-mentioned legislative changes, a procedure for involuntary placement in a psychiatric hospital *in non-emergency situations* (hereinafter referred to as the “regular” placement procedure) has been introduced.

According to Chapter 54 of the Code of Civil Procedure, involuntary placement may be ordered by a court, on the basis of a request by the competent rural municipality or city government. The judge must hear the person concerned<sup>91</sup> and obtain an expert opinion from a psychiatrist<sup>92</sup>. Further, the court has to appoint a representative for the person concerned, if the latter is not already being represented<sup>93</sup>. The placement order has to be notified to the person concerned. However, if there are reasons to believe that disclosure of the grounds for the decision could be “significantly prejudicial to the health of the person concerned”, the reasoning of the decision does not have to be communicated to the person<sup>94</sup>. An appeal against the placement order may be lodged by the person concerned or by a close family member<sup>95</sup>. In the court decision, the person concerned has to be informed of the right to lodge an appeal.

The maximum term for a single involuntary placement order has recently been reduced from three years to one year. For any extension of a placement, a new procedure must be initiated, following the same rules as for the initial placement. However, if the person concerned has already spent more than four years in a closed institution, the court has to appoint “as a general rule” an expert who is independent of the institution in which that person has been placed<sup>96</sup>.

126. *Emergency placement procedures* continue to be regulated by Sections 11 to 13 of the MHA. A person may be admitted to a psychiatric hospital on an involuntary basis without a court decision<sup>97</sup>, if there are reasons to believe that the requirements of Section 11, paragraph 1, of the MHA are met<sup>98</sup> and for a period of up to 48 hours. During that period of time, two doctors must carry out a medical examination of the person concerned (upon arrival, the doctor who is admitting the patient and, within 24 hours, “another psychiatrist”). Further, the involuntary admission must be notified by the chief doctor of the hospital to the competent court<sup>99</sup>.

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<sup>89</sup> Chapter 54 “Placement of Persons in Closed Institutions”.

<sup>90</sup> Sections 11 to 13.

<sup>91</sup> Section 536, paragraph 1, of the Code of Civil Procedure.

<sup>92</sup> Section 537, paragraph 1, of the Code of Civil Procedure .

<sup>93</sup> Section 535, paragraph 1, of the Code of Civil Procedure.

<sup>94</sup> Section 541, paragraph 1, of the Code of Civil Procedure.

<sup>95</sup> Section 543 of the Code of Civil Procedure.

<sup>96</sup> Section 539, paragraph 2, of the Code of Civil Procedure.

<sup>97</sup> On request of emergency medical staff, the police, a relative or other persons.

<sup>98</sup> Section 11, paragraph 1, reads as follows: “A person is admitted to the psychiatric department of a hospital for emergency psychiatric care without the consent of the person or his or her legal representative [...] only if all of the following circumstances exist: (1) the person has a severe mental disorder which restricts his or her ability to understand or control his or her behaviour; (2) without inpatient 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”.

<sup>99</sup> Section 13, paragraphs 1 to 3, of the MHA; see also Article 21 of the Estonian Constitution.

During the court proceedings, the relevant provisions of Chapter 54 of the Code of Civil Procedure apply, unless otherwise provided for by the MHA. The court may issue a provisional placement order under Section 534 of the Code of Civil Procedure for a period of up to three months. The provisional placement may subsequently be extended to a maximum period of six months, in which case an expert opinion must be sought by the court.

Parallel to an emergency placement procedure, a “regular” court procedure for involuntary placement may be initiated by the local government, if it is expected that the patient concerned will require hospitalisation for a prolonged period.

127. From the examination of patients’ files and consultations with a judge from Tartu Court (Viljandi Courthouse) and staff of the hospital, it transpired that, in practice, the involuntary hospitalisation of patients at the Viljandi Hospital Foundation was, on the whole, carried out in accordance with the above-mentioned legal requirements. In particular, patients subject to an emergency procedure were usually seen by the judge in the presence of a court-appointed lawyer within the 48-hour deadline before a placement decision was taken. Court decisions were systematically delivered to the patients concerned, who had to confirm by signing the document concerned that they had received it. Decisions contained a clause concerning the modalities for obtaining legal aid and for lodging an appeal. Extensions of provisional involuntary placements from three to six months occurred only rarely, since, in the event of prolonged hospitalisation, the “regular” placement procedure was usually completed within three months. In both procedures (the extension of a provisional placement and the “regular” placement), an expert opinion was requested by the court from a doctor of the hospital who had not been involved in the initial admission procedure.

128. To sum up, the current system and practice are on the whole satisfactory and largely meet the requirements set out in paragraph 123. However, **it would be highly desirable that an expert who is independent of the institution in which the person concerned has been placed be involved in every placement procedure (i.e. initial placement and any renewal of a placement order).**

129. The CPT regrets the fact that, in the context of the recent legislative changes, Section 12, paragraph 5, of the MHA has not been amended, despite a specific recommendation made in the report on the 2003 visit. According to the latter provision, upon admission to a psychiatric hospital, involuntary patients are allowed to meet *briefly* a relative, the legal representative, a doctor, a lawyer or another person of their choice.

At Viljandi Hospital Foundation, the delegation received no complaints that time restrictions on such visits had been imposed. However, the CPT wishes to emphasise once again 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. **The Committee reiterates its recommendation that involuntary patients be formally granted unlimited and unrestricted access to their legal representatives/lawyers; Section 12, paragraph 5, of the MHA should be amended accordingly.**

130. As regards discharge procedures, involuntary placement in a psychiatric hospital may be terminated by the court, prior to the expiry of the term of the placement order, on the request of the patient concerned, the local government or *ex officio*, if the court considers that the prerequisites for involuntary placement no longer exist<sup>100</sup>.

131. As regards involuntary placement orders issued by courts for a period of more than one year prior to the recent amendment to the Code of Civil Procedure<sup>101</sup>, **the CPT recommends that steps be taken at the Viljandi Hospital Foundation and, if appropriate, in other psychiatric hospitals in Estonia, to ensure that such placements are automatically reviewed at regular intervals (at least once a year) by a court.**

132. The involuntary placement in a social welfare institution under Section 19 of the Social Welfare Act is also covered by the provisions of Chapter 54 of the Code of Civil Procedure. Thus, the safeguards described in paragraph 125 (in particular, regarding the involvement of a court, the appointment of an *ex officio* lawyer and the commission of an expert opinion from a psychiatrist) apply equally to placements in social welfare institutions.

The information gathered by the delegation at the Võisiku Care Home demonstrated that placement procedures were generally carried out in accordance with the legal requirements.

The CPT welcomes this state of affairs. However, **the comment made in paragraph 128 applies equally to the involuntary placement in a social welfare institution.**

133. The Committee wishes to express its concern about the legal status of certain patients/residents at the Viljandi Hospital Foundation and the Võisiku Care Home who were considered “voluntary”.

A number of patients at Viljandi and the majority of residents at Võisiku were clearly unable to give a valid consent to their placement. Most of them were not allowed to leave the establishment on their own although they were not subject to an involuntary placement order by the court, nor were they deprived of their legal capacity and given a court-appointed guardian. In some cases, their consent to placement was substituted by the signature of a family member who was not a court-appointed guardian. As a consequence, the patients/residents concerned were *de facto* deprived of their liberty, without benefiting from the safeguards provided for by law.

In the CPT’s view, all patients/residents who are presumed to be unable to give their valid consent, regardless of whether they object to their placement, should be notified to the competent court (with a view to initiating an involuntary placement procedure or having a guardian appointed).

**The CPT recommends that the legal status of patients/residents at the Viljandi Hospital Foundation and the Võisiku Care Home and, if appropriate, in other psychiatric/social welfare establishments, be reviewed, in the light of the above remarks.**

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<sup>100</sup> Section 539, paragraph 1, of the Code of Civil Procedure.

<sup>101</sup> Amendment by which the maximum term of involuntary placement was reduced from three years to one year.



134. At Viljandi, the delegation observed that, in some cases, the files of patients who were considered to have given their valid consent to their placement contained no record of their written consent. **Steps should be taken to remedy this shortcoming.**

135. Specific reference should also be made to the situation of patients/residents deprived of their legal capacity. Such persons could be admitted to a psychiatric hospital/social welfare institution solely with the written consent of the guardian. However, they were considered to be voluntary patients/residents, even when they opposed such a placement, and their admission was therefore not notified to the court. In the CPT's view, placing incapacitated persons in a closed section of a psychiatric/social welfare establishment based solely on the consent of the guardian entails a risk that such persons will be deprived of essential safeguards.

In this connection, the CPT noted that, according to the relevant provisions of the Code of Civil Procedure<sup>102</sup>, certain safeguards apply during the procedure for depriving a person of his/her legal capacity and appointing a guardian, such as the requirements that the person concerned be examined by a forensic psychiatrist and be heard in person by the court.

However, the examination of court files by the delegation revealed that such persons were not always heard (or seen) by a judge, for instance, when a medical report stated that "it is not expedient for him to be interviewed by a judge in relation to his diagnosis". **The CPT wishes to stress that it should be the duty of the judge to always obtain a direct personal impression of the mental state of the person concerned before taking a decision on the deprivation of legal capacity and appointment of a guardian.**

136. The need for placement of persons deprived of their legal capacity in a closed institution should be reviewed at regular intervals by an appropriate authority.

According to Section 526, paragraph 3, of the Code of Civil Procedure, the term of a court-appointed guardian may not be longer than three years, but may be renewed by the decision of a court. This provides a good opportunity for carrying out the above-mentioned review. **Steps should be taken to ensure that in the context of court proceedings to renew the term of a guardian, the person under guardianship is always heard in person by the judge.**

137. As regards forensic psychiatry, the placement of persons who have been declared criminally irresponsible and are subjected to coercive treatment in a psychiatric establishment under Section 86 of the Penal Code<sup>103</sup> – or who are under assessment<sup>104</sup> – is regulated by Sections 393 to 403 of the Code of Criminal Procedure. The relevant provisions provide for appropriate safeguards in the context of placement procedures and do not call for any particular comment.

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<sup>102</sup> Chapter 53 ("Appointment of Guardian for Adult with Restricted Active Legal Capacity").

<sup>103</sup> See also Section 17 of the MHA and Regulation No. 105 issued by the Minister for Social Affairs on 26 August 2002.

<sup>104</sup> See Section 15, paragraph 2, of the MHA and Section 102, paragraphs 2 and 3, of the Code of Criminal Procedure. Such placement may be ordered by a preliminary investigation judge for a period of up to one month, which may be extended by three months.

Placement under Section 86 of the Penal Code is for an indeterminate period<sup>105</sup>. It may be terminated by a court decision, on the basis of a proposal from the medical institution or following a request by the legal representative, counsel or a family member of the person concerned<sup>106</sup>. The law does not explicitly allow forensic patients themselves to request a judicial review during their placement. However, according to a judge met by the delegation, in practice, such requests would not be declared inadmissible but would be examined on the merits. **The CPT recommends that the right for forensic patients to request, at reasonable intervals, a judicial review of their placement be formally guaranteed<sup>107</sup>.**

138. The need for coercive psychiatric treatment must be examined every six months by a commission comprising at least two psychiatrists<sup>108</sup>. From the information gathered by the delegation, it transpired that, at Viljandi, such reviews were carried out at the required intervals by the Hospital's commission (comprising at least two psychiatrists). However, Estonian legislation does not provide for a regular judicial review of involuntary admissions for the purpose of coercive treatment.

**The CPT invites the Estonian authorities to provide for an automatic judicial review, at regular intervals, of placements ordered under Section 86 of the Penal Code. This review procedure should also offer guarantees of objective medical expertise.**

139. During the visit, the chief doctor of the forensic psychiatric department informed the delegation that, for twelve of the 85 patients in the department, hospitalisation was no longer justified in psychiatric terms. However, these patients could not leave the department because there were no places available in an appropriate establishment (such as a social welfare home). **The CPT would like to receive the authorities' comments on this point.**

b. safeguards during placement

140. 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 the Viljandi Hospital Foundation and the Võisiku Care Home, newly-admitted patients/residents received information verbally regarding the internal rules of the establishment and their rights, but no information was provided in writing on admission<sup>109</sup>.

**The CPT recommends that an introductory leaflet/brochure be elaborated and issued to each newly-admitted patient/resident (as well as to his/her legal representative and close relatives), accompanied if necessary by appropriate verbal explanations, at the Viljandi Hospital Foundation and the Võisiku Care Home.**

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<sup>105</sup> “... until the person recovers or ceases to pose a danger” (Section 86, paragraph 3, of the Code of Criminal Procedure).

<sup>106</sup> Section 403, paragraphs 1 and 4, of the Code of Criminal Procedure.

<sup>107</sup> See also Article 5, paragraph 4, of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>108</sup> Section 3, paragraph 3, of Regulation No. 105 issued by the Minister of Social Affairs.

<sup>109</sup> In some departments, the internal rules were also displayed on notice boards.

141. An effective complaints procedure is another basic safeguard against ill-treatment in psychiatric/social welfare establishments. Specific arrangements should exist, which enable 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 Viljandi and Võisiku, patients/residents could submit a complaint to the Director, as well as to various outside bodies, such as the municipality, the Ministry of Social Affairs and the Chancellor of Justice. However, a number of patients/residents appeared to be unaware of the existing possibilities to lodge a complaint.

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

142. 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.

The delegation was informed that over the past three years the Chancellor of Justice had visited the eleven psychiatric establishments under the authority of the Ministry of Social Affairs, including the Viljandi Hospital Foundation (visited in 2006). Further, the CPT welcomes the fact that, at Viljandi, members of a patient-support association visited the Foundation twice a week to talk to patients and offer them advice (free of charge).

However, Võisiku Care Home had, thus far, not been visited by the Chancellor of Justice or any other independent body. **The CPT recommends that steps be taken at Võisiku Care Home, as well as in all other establishments of this kind, to ensure that visits are carried out, on a regular basis, by a body which is independent of the health/social welfare authorities.**

143. At both establishments visited, the existing arrangements for patients'/residents' contact with the outside world were satisfactory and do not call for any particular comment.

## APPENDIX I

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

#### Police establishments

##### **Ill-treatment**

##### recommendations

- all police officers, in particular members of special intervention groups, to be reminded that all forms of ill-treatment of persons deprived of their liberty (including verbal abuse) are not acceptable in whatever circumstances and will be punished accordingly. Police officers should also be reminded that the force used when performing their duties should be no more than is strictly necessary and that, once persons have been brought under control, there can be no justification for striking them (paragraph 14);
- police officers to be trained in preventing and minimising violence in the context of an apprehension. For cases in which the use of force nevertheless becomes necessary, they need to be able to apply professional techniques which minimise any risk of harm to the persons whom they are seeking to apprehend (paragraph 14).

##### comments

- only exceptional circumstances can justify measures to conceal the identity of law enforcement officials carrying out their duties. Where such measures are applied, appropriate safeguards must be in place in order to ensure that the officials concerned are accountable for their actions (e.g. by means of a clearly visible number on the uniform) (paragraph 15).

##### requests for information

- updated information on the outcome of the investigations into the alleged cases of police ill-treatment in connection with the April 2007 events and an account of any criminal/disciplinary sanctions imposed (paragraph 16).

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

### recommendations

- 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, as from the very outset of their deprivation of liberty (paragraph 19);
- the relevant legislation to be amended so that the circumstances in which the right of a detained person to notify those closest to him may be delayed are spelt out in a more precise manner (paragraph 21);
- steps to be taken to ensure that whenever a minor is detained on suspicion of having committed a criminal offence, the police are obliged to immediately notify the parent, guardian or curator and the social-services department of the detention; the Code of Criminal Procedure should be amended accordingly (paragraph 22);
- the Estonian authorities to recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty (paragraph 23);
- steps to be taken to render obligatory the presence of a lawyer or a trusted person during any questioning of a minor by the police (paragraph 26);
- specific legal provisions to be adopted governing the right of access to a doctor for persons detained by the police (including to one of their own choice), from the very outset of their deprivation of liberty (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense) (paragraph 27);
- immediate steps to be taken to ensure that all persons admitted to a police arrest house are given a thorough medical screening without delay and that, throughout their stay, they are allowed ready access to health-care staff (including, if they so request, a doctor of their own choice) (paragraph 28);
- steps to be taken to ensure that the confidentiality of medical data is respected in all police arrest houses (paragraph 28);
- without further delay, all persons detained by the police – for whatever reason – to be fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person's rights in a straightforward manner. This form should be available in an appropriate range of languages (paragraph 29).

comments

- the entries relating to the notification of one's custody, in the "Protocol of Detention", should be filled in systematically (paragraph 20);
- the entries relating to access to a lawyer, in the "Protocol of Detention", should be filled in systematically (paragraph 24);
- from the standpoint of the prevention of ill-treatment, but also in view of the extremely poor conditions prevailing in certain police arrest houses, it is far preferable for further questioning of persons committed to a remand prison to be undertaken by police officers in prisons rather than on police premises. The return of prisoners to police premises should only be sought and authorised very exceptionally, for specific reasons and for the shortest possible time (paragraph 30);
- even in exceptional circumstances, such as those of the April 2007 events, it is incumbent on the authorities to make every effort to guarantee that persons detained by the police enjoy the fundamental safeguards set out in paragraph 18 as from the very outset of their deprivation of liberty (paragraph 31).

requests for information

- detailed information on the practical arrangements made to ensure the effectiveness of the legal aid system (e.g. to ensure that *ex officio* lawyers are contacted and meet their clients as from the initial stage of police custody) (paragraph 25).

**Conditions of detention**

recommendations

- the Estonian authorities' plan referred to in paragraph 40 to be pursued as a matter of priority, and a definitive end to be put as soon as possible to the practice of holding remand and sentenced prisoners in police arrest houses (paragraph 40);
- for as long as police arrest houses continue to be used for any detention other than police custody, arrangements to be made to ensure that all detained persons are offered at least one hour of outdoor exercise per day (including during weekends and public holidays) (paragraph 40);
- immediate steps to be taken to ensure that in all police arrest houses:
  - cells enjoy access to natural light and are fitted with adequate artificial lighting and ventilation;
  - detained persons are able to comply with the needs of nature in decent conditions (by having partitioned in-cell toilets or ready access to sanitary facilities outside their cell)(paragraph 40);

- the three very small (approximately 1.5 m<sup>2</sup>) “waiting cells” at Narva Police Department to be either enlarged or withdrawn from service (paragraph 42).

comments

- the cell measuring 2.4 m<sup>2</sup> at Kohtla-Järve Arrest House should only be used for temporary holding purposes (i.e. for no longer than a few hours) and should never be used as overnight accommodation (paragraph 35);
- the authorities have the duty of taking the necessary steps to ensure that all persons detained by the police are provided with a means of rest and have ready access to sanitary facilities; further, the persons concerned should be given food at appropriate times (paragraph 41).

**Harku Repatriation Centre of the Citizenship and Migration Board**

recommendations

- steps to be taken to provide a better range of activities for foreign nationals held for prolonged periods at the Harku Repatriation Centre. The longer the period for which persons are detained, the more developed should be the activities which are offered to them (paragraph 47);
- steps to be taken at the Harku Repatriation Centre to ensure that:
  - the vacant nurse’s post is filled without further delay;
  - all newly-admitted immigration detainees receive a medical screening without delay by the doctor or the nurse (reporting to the doctor) (paragraph 48);
- current practices concerning the presence of police officers during medical consultations and the handcuffing of immigration detainees during their transfer to and from hospitals to be reviewed, in the light of the remarks made in paragraph 49 (paragraph 49).

comments

- the Estonian authorities are invited to introduce an absolute time limit for the detention of foreign nationals under aliens legislation (paragraph 43);
- the Estonian authorities are invited to consider the possibility of offering at least one free telephone call per month to those immigration detainees without the financial means to pay for it themselves (paragraph 51).

## **Prisons**

### **Preliminary remarks**

#### recommendations

- the legal standard concerning living space per prisoner to be raised as soon as possible, so as to guarantee at least 4 m<sup>2</sup> per prisoner in multiple-occupancy cells, and official capacities and occupancy levels of cells in Estonian prisons to be revised accordingly (paragraph 53).

#### comments

- the Estonian authorities are encouraged to pursue their efforts to combat prison overcrowding and, in so doing, to be guided, inter alia, by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole) (paragraph 54).

#### requests for information

- the results of the study commissioned by the Ministry of Justice on the factors influencing the size of the prison population (paragraph 54).

### **Ill-treatment**

#### recommendations

- the Estonian authorities to pursue vigorously their efforts to combat the phenomenon of inter-prisoner violence, in the light of the remarks made in paragraphs 59 and 60. Steps should be taken as a matter of priority to fill the vacant posts for prison officers at Murru Prison. Further, particular attention should be paid to the problem of inter-prisoner violence in the context of initial and in-service training programmes for prison officers in Estonia (paragraph 61).

#### requests for information

- the outcome of the criminal proceedings concerning two incidents (each of which had resulted in the killing of a prisoner by fellow inmates) at Murru Prison in 2006 (paragraph 58);
- the outcome of the criminal investigations initiated between January and May 2007 into 13 cases of possible inter-prisoner violence at Murru Prison (paragraph 60).



## **Conditions of detention of the general prison population**

### recommendations

- immediate steps to be taken to improve material conditions of detention in the cell-type living sections of Murru Prison, in the light of the remarks made in paragraph 62. Further, action should be taken throughout the prison to improve sanitary and hygiene conditions (paragraph 63);
- steps to be taken to ensure that all prisoners at Murru and Tallinn Prisons have access to an appropriate range of out-of-cell activities, such as work, education, sports and recreational activities (paragraph 70);
- steps to be taken at Murru Prison to equip the outdoor exercise yards of Sections 8 and 9 with means of rest and protection against inclement weather (paragraph 70).

### comments

- efforts should continue to be made to reduce the cell occupancy levels in Tallinn prison (paragraph 64).

### requests for information

- a detailed plan of the different stages of construction of the new prison in Tallinn and a timetable for their full implementation (paragraph 64);
- updated information on the implementation of the programme of activities for the life-sentenced prisoners at Murru Prison (paragraph 67).

## **Conditions of detention of young prisoners at Viljandi Prison**

### comments

- the Estonian authorities are encouraged to pursue their plan to close down Viljandi Prison as quickly as possible (paragraph 73);
- steps should be taken at Viljandi Prison (for as long as the establishment remains in use) to ensure that young prisoners are held in decent conditions (in particular, as regards hygiene, lighting and, when necessary, heating) (paragraph 73);
- the CPT trusts that the Estonian authorities will take the necessary steps to ensure that all the requirements set out in paragraph 74 are fully taken into account in the new section for juvenile prisoners at Viru Prison (paragraph 74).

## **Health care**

### recommendations

- the health-care staff resources at Murru Prison to be reviewed, in the light of the remarks made in paragraph 75. Steps should be taken as a matter of priority to fill the vacant post of a psychiatrist. Further, the establishment should benefit from at least one additional full-time general practitioner, and the nursing staff complement should be substantially reinforced (paragraph 75);
- steps to be taken at Tartu Prison and, if appropriate, in other prisons in Estonia, to ensure that the record drawn up after a medical examination of a prisoner (whether newly-arrived or not) contains:
  - (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/her;
  - (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 78);
- an immediate end to be put to the practice of forcible urine tests in all prisons in Estonia (paragraph 81).

### comments

- steps should be taken at Murru Prison (Section 9) to ensure that the distribution of prescribed medication is always carried out by qualified health-care staff (paragraph 76);
- the Estonian authorities are encouraged to develop a comprehensive policy (including the treatment of drug addiction) to combat the problem of drug abuse at Murru Prison and, if appropriate, in other prisons in Estonia (paragraph 80).

## **Other issues**

### recommendations

- the maximum period of placement in a punishment cell in respect of adult sentenced prisoners to be substantially reduced and consideration to be given to reducing the maximum period in respect of adult remand prisoners (paragraph 83);
- the maximum period of placement in a punishment cell in respect of minors to be substantially reduced. Further, whenever juveniles are subjected to such a sanction, they should be guaranteed appropriate human contact (paragraph 84);

- prisoners facing disciplinary charges to have the right to be heard in person by the Governor before a decision is taken on the matter. Further, prisoners should always receive a copy of the decision. If necessary, the relevant legal provisions should be amended in relation to these matters (paragraph 85);
- all prisoners placed in a punishment cell to be allowed access to general reading matter (paragraph 86);
- the necessary steps to be taken to render the prison committees fully operational throughout the entire prison system (paragraph 88);
- a special register on resort to means of physical restraint to be introduced at Tartu Prison and, if appropriate, in other prisons in Estonia, in the light of the remarks made in paragraph 90 (paragraph 90).

#### requests for information

- confirmation that, in the new unit for juvenile prisoners at Viru Prison, short-term visits will be allowed, as a rule, under open conditions (paragraph 82);
- detailed information on the procedure in force regarding the use of the bed equipped with fixation points in cell No. 1001 in Tartu Prison and, in particular, on the circumstances in which this bed is used, the arrangements for involvement of a doctor and the manner in which the monitoring of immobilised inmates is organised; and information on the training of staff required to use this equipment (paragraph 91).

### **Psychiatric/social welfare establishments**

#### **Preliminary remarks**

#### requests for information

- progress made regarding further amendments to the Code of Civil Procedure and the Mental Health Act, and a copy of the new provisions, once adopted (paragraph 92).

#### **Ill-treatment**

#### recommendations

- the management of the Viljandi Hospital Foundation to recall to the staff that the verbal abuse of patients is not acceptable (paragraph 95).

## **Living conditions**

### recommendations

- patients at the Viljandi Hospital Foundation to be allowed to wear their own clothes during the day or to be provided with appropriate non-uniform garments (paragraph 99);
- steps to be taken at the Viljandi Hospital Foundation to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing (paragraph 100).

### comments

- the Estonian authorities are invited to ensure that patients/residents at the Viljandi Hospital Foundation and the Võisiku Care Home are given lockable space in which to store their personal belongings (paragraph 104).

### requests for information

- confirmation that the ventilation system in the forensic department at the Viljandi Hospital Foundation has been repaired (paragraph 97);
- the programme of activities offered to patients in the tuberculosis department at the Viljandi Hospital Foundation (paragraph 101);
- detailed information on the progress made in implementing the renovation plans of the “24-hour care with reinforced supervision” and the “24-hour care” units at the Võisiku Care Home (paragraph 102).

## **Treatment**

### recommendations

- the Estonian authorities to pursue their efforts to provide psychiatric patients at the Viljandi Hospital Foundation (especially in the chronic and forensic departments) with more comprehensive and individualised care, in the light of the remarks made in paragraph 105 (paragraph 108);
- steps to be taken at the Viljandi Hospital Foundation (as well as in any other psychiatric establishments in Estonia) to ensure that all competent patients are placed in a position to give their informed consent to treatment (paragraph 109);
- the Estonian authorities to examine, as a matter of priority, the question of the allocation of patients within the tuberculosis department at the Viljandi Hospital Foundation, with a view to preventing the infection of patients by other patients (paragraph 111);

- steps to be taken at the Võisiku Care Home to ensure that all residents receive more individualised care and benefit from adequate psychosocial and occupational therapeutic activities, according to their mental capacity and physical mobility (paragraph 112);
- medical files at the Võisiku Care Home to be kept in a complete and precise manner (paragraph 113).

#### comments

- steps should be taken to ensure that at the Viljandi Foundation Hospital, tuberculosis patients take the DOTS treatment in the presence of nurses (paragraph 110).

### **Staff**

#### recommendations

- the number of nursing staff to be substantially increased in the acute, chronic and forensic departments at the Viljandi Hospital Foundation (paragraph 115);
- steps to be taken to ensure that basic training is provided to all orderlies at the Viljandi Hospital Foundation (paragraph 116);
- immediate steps to be taken at the Võisiku Care Home to:
  - substantially increase the number of nursing staff;
  - increase the psychiatrist's weekly working hours;
  - reintroduce the regular presence (at least once a week) of a general practitioner (paragraph 117).

#### requests for information

- detailed information on the in-service training offered to orderlies at the Viljandi Hospital Foundation since January 2007 (content; duration; number of participants; etc.) (paragraph 116).

### **Means of restraint and seclusion**

#### recommendations

- steps to be taken at the Viljandi Hospital Foundation and, if appropriate, in other psychiatric hospitals in Estonia, to ensure that means of restraint are only applied by trained health-care staff (supported, if necessary, by orderlies) and that the supervision of patients under restraint is brought into line with the requirements set out in paragraph 118 (paragraph 119);

- the deficiencies mentioned in paragraph 121 to be remedied without delay (paragraph 121);
- a specific register for recording the use of means of restraint and seclusion to be established at the Viljandi Hospital Foundation and the Võisiku Care Home, taking into account the criteria set out in paragraph 118 (paragraph 122).

#### requests for information

- confirmation that the seclusion rooms in the “24-hour care” and “24-hour care with reinforced supervision” units at the Võisiku Care Home have been taken out of service (paragraph 120).

### **Safeguards**

#### recommendations

- involuntary patients to be formally granted unlimited and unrestricted access to their legal representatives/lawyers; Section 12, paragraph 5, of the Mental Health Act should be amended accordingly (paragraph 129);
- steps to be taken at the Viljandi Hospital Foundation and, if appropriate, in other psychiatric hospitals in Estonia, to ensure that involuntary placement orders previously issued by courts for a period of more than one year are automatically reviewed at regular intervals (at least once a year) by a court (paragraph 131);
- the legal status of patients/residents at the Viljandi Hospital Foundation and the Võisiku Care Home and, if appropriate, in other psychiatric/social welfare establishments, to be reviewed, in the light of the remarks made in paragraph 133 (paragraph 133);
- the right for forensic patients to request, at reasonable intervals, a judicial review of their placement to be formally guaranteed (paragraph 137);
- an introductory leaflet/brochure to be elaborated and issued to each newly-admitted patient/resident (as well as to his/her legal representative and close relatives), accompanied if necessary by appropriate verbal explanations, at the Viljandi Hospital Foundation and the Võisiku Care Home (paragraph 140);
- at the Viljandi Hospital Foundation and the Võisiku Care Home, patients/residents to be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (paragraph 141);
- steps to be taken at Võisiku Care Home, as well as in all other establishments of this kind, to ensure that visits are carried out, on a regular basis, by a body which is independent of the health/social welfare authorities (paragraph 142).

comments

- it would be highly desirable that an expert who is independent of the institution in which the person concerned has been placed be involved in every involuntary placement procedure of a civil nature in a psychiatric hospital (i.e. initial placement and any renewal of a placement order) (paragraph 128);
- the comment made in paragraph 128 applies equally to the involuntary placement procedure in a social welfare institution (paragraph 132);
- at the Viljandi Hospital Foundation, the patient's consent to placement should be recorded in writing in the patient's file (paragraph 134);
- it should be the duty of the judge to always obtain a direct personal impression of the mental state of the person concerned before taking a decision on the deprivation of legal capacity and appointment of a guardian (paragraph 135);
- steps should be taken to ensure that in the context of court proceedings to renew the term of a guardian, the person under guardianship is always heard in person by the judge (paragraph 136);
- the Estonian authorities are invited to provide for an automatic judicial review, at regular intervals, of placements ordered under Section 86 of the Penal Code. This review procedure should also offer guarantees of objective medical expertise (paragraph 138).

requests for information

- comments on the point raised in paragraph 139 concerning forensic patients whose hospitalisation is no longer justified in psychiatric terms (paragraph 139).

**APPENDIX II**

**LIST OF THE AUTHORITIES, NON-GOVERNMENTAL ORGANISATIONS  
AND PERSONS MET BY THE CPT'S DELEGATION**

**A. Ministerial Authorities**

**Ministry of Justice**

|              |   |
|--------------|---|
| Rein LANG    | Minister  |
| Priit KAMA   | Deputy Secretary General  |
| Priit POST   | Head of the Execution Division, Prison Department                                 |
| Piret LIBA   | Head of the Social Welfare Division, Prison Department                            |
| Margot OLESK | Adviser, Legal and Development Division, Prison Department<br>CPT liaison officer |

**Ministry of Internal Affairs**

|               |   |
|---------------|---|
| Marek HELM    | Deputy Secretary General                      |
| Priit HEINSOO | Head of the Law Enforcement Policy Bureau     |
| Meelis MITT   | Superintendent, Police Board                  |
| Kairit MÄGI   | Adviser, Citizenship and Migration Department |

**Ministry for Social Affairs**

|              |   |
|--------------|---|
| Riho RAHUOJA | Deputy Secretary General                          |
| Heli PALUSTE | Expert on health politics, Health Care Department |
| Piret KOKK   | Expert on welfare, Social Welfare Department      |

**B. Office of the Chancellor of Justice**

|              |                       |
|--------------|-----------------------|
| Allar JÕKS   | Chancellor of Justice |
| Nele PARREST | Head of Department    |
| Mari AMOS    | Adviser               |
| Kaarel ELLER | Adviser               |

**C. Non-governmental organisations**

Estonian Patients' Advocacy Association  
Legal Information Centre for Human Rights