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Report

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

from 27 September to 5 October 2017

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 (2019) 32.

Strasbourg, 19 November 2019

CONTENTS

Executive summary.....	4
I. INTRODUCTION	7
A. The visit, the report and follow-up.....	7
B. Consultations held by the delegation and co-operation	8
C. Immediate observations under Article 8, paragraph 5, of the Convention.....	9
D. National Preventive Mechanism.....	10
II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED.....	11
A. Establishments under the Ministry of the Interior.....	11
1. Preliminary remarks.....	11
2. Ill-treatment.....	12
3. Fundamental safeguards against ill-treatment.....	12
4. Conditions of detention.....	14
a. police detention houses.....	14
b. other police detention facilities.....	16
5. Remand prisoners held in police establishments.....	17
B. Establishments under the authority of the Ministry of Justice	21
1. Preliminary remarks.....	21
2. Ill-treatment.....	23
3. Conditions of detention.....	24
4. Health-care services at Tartu Prison	27
5. Other issues	29
a. contact with the outside world.....	29
b. solitary confinement as a disciplinary sanction	30
c. security-related issues	33
d. legal remedies and complaints procedures	36

C. Valgejõe Training Centre of Maarjamaa Education Institute.....	37
1. Preliminary remarks	37
2. Ill-treatment.....	38
3. Living conditions and pedagogical approach.....	39
4. Health care	41
5. Other issues	42

APPENDIX I:

List of the establishments visited by the CPT's delegation.....	44
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APPENDIX II:

List of the national authorities and other bodies met by the CPT's delegation.....	45
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EXECUTIVE SUMMARY

The main objective of the 2017 periodic visit was to review the measures taken by the Estonian authorities to implement the recommendations made by the Committee after previous visits. In this context, particular attention was paid to the treatment and conditions of detention of persons in police custody as well as to the situation in police detention houses and prisons. In addition, it visited, for the first time in Estonia, a juvenile institution, namely Valgejõe Training Centre of Maarjamaa Education Institute in Tapa.

The co-operation received throughout the visit, from both the national authorities and staff at the establishments visited, was excellent. That said, the principle of co-operation also requires that the CPT's recommendations be effectively implemented in practice. In this regard, the CPT expresses its concern about the lack of progress in a number of areas, such as the material conditions in several police detention houses and the continued practice of holding remand prisoners in police establishments, as well as the regime provided to remand prisoners in detention houses and prisons and the frequent and prolonged recourse to solitary confinement in prison.

Law enforcement agencies

The CPT notes positively that its delegation received hardly any allegations of physical ill-treatment by police officers from detained persons who were or had been held in police custody or who were being detained in police detention houses.

As regards the fundamental safeguards against ill-treatment (i.e. the right of notification of custody and the rights of access to a lawyer and doctor), the vast majority of detained persons interviewed by the delegation indicated that they had been able to notify a third person shortly after apprehension, and the situation appeared to be generally satisfactory regarding criminal suspects' access to a lawyer. That said, the Committee once again calls upon the Estonian authorities to take the necessary measures, including at the legislative level, to ensure that all persons detained by the police are formally entitled and granted in practice the right of access to a doctor (including one of their own choice) as from the very outset of their deprivation of liberty.

Whilst acknowledging the efforts by the Estonian authorities to improve the material conditions of detention in police detention houses, the CPT is very concerned about the appalling material conditions found at Pärnu, Tallinn, Tartu and Valga Detention Houses, as well as at Tallinn East Police Station, and the small size of some of the cells seen in various police establishments. The Committee recommends that the material shortcomings be remedied and that cells measuring less than 5 m² no longer be used for overnight stays.

The CPT notes positively that Estonian legislation provides that persons held in detention houses should be given access to an outside space for at least one hour per day. Unfortunately, in practice this was frequently still not the case, partly because many detention houses were not equipped with an outdoor yard. The Committee reiterates its long-standing recommendation that all persons who are detained by the police for 24 hours or more be offered at least one hour of access per day to the open air.

The CPT expresses serious misgivings about the fact that remand prisoners were still frequently being held in police detention houses beyond the period of police custody (pending their transfer to a prison) for one to four weeks, and in some cases even for several months.

Whilst acknowledging the fact that the total number of such cases in the country has significantly decreased since the 2012 visit, the Committee recalls that detention houses are not suitable for holding remand prisoners. In the CPT's view, the detention of remand prisoners in such establishments for prolonged periods in the poor material conditions described in the report combined with the total lack of out-of-cell activities could amount to inhuman and degrading treatment, all the more so if the persons concerned are *de facto* held in solitary confinement. The CPT calls upon the Estonian authorities to put an end to the practice of holding remand prisoners in police detention houses beyond the period of police custody (i.e. 48 hours). Further, pending the definitive end of this practice, a number of interim measures should be taken to improve the living conditions of the persons concerned.

Prison establishments

The CPT welcomes the measures taken by the Estonian authorities to reduce significantly the total prison population since the 2012 visit (from 3,389 to some 2,600). That said, Estonia still has one of the highest national incarceration rates of the Council of Europe's member States (i.e. 210 inmates per 100,000 inhabitants). The Committee encourages the Estonian authorities to further develop alternatives to imprisonment, in the light of relevant recommendations of the Committee of Ministers of the Council of Europe, and urges them to raise the legal minimum standard of living space per prisoner in multiple-occupancy cells to 4 m² (not counting the area taken up by in-cell sanitary facilities) without any further delay.

At Tallinn and Tartu Prisons, hardly any allegations of physical ill-treatment by staff were received, while a few allegations of excessive use of force by prison officers were heard at Viru Prison. Further, inter-prisoner violence did not constitute a major problem in any of the prisons visited.

In the newer establishments of Tartu and Viru Prisons, material conditions of detention were generally satisfactory. That said, at Tallinn Prison, conditions remained substandard (dilapidated cells and appalling sanitary facilities), and many sentenced prisoners were still being held under cramped conditions (e.g. up to ten persons in a cell measuring 31 m²). Given the planned opening of the new Tallinn Prison at the end of 2018, the CPT refrains from making any recommendations regarding the infrastructure of the current establishment. Instead, the CPT requests the Estonian authorities to provide updated information on the progress made to finalise the construction of the new prison in Tallinn and to withdraw the old premises from service.

Whilst acknowledging the efforts made by the Estonian authorities to provide sentenced prisoners with a range of purposeful out-of-cell activities, it remained the case that a considerable number of such prisoners were not provided with any such activities on a regular basis. Further, the CPT expresses its serious concern about the fact that, apart from daily outdoor exercise of one hour, the vast majority of remand prisoners remained locked up in their cells all day long for months and, in some cases, even years on end. In addition, according to the relevant legislation, remand prisoners were not allowed to associate with prisoners from other cells. The CPT calls upon the Estonian authorities to take the necessary steps to devise and implement a comprehensive regime of out-of-cell activities (including group association) for all sentenced and remand prisoners.

The delegation gained a generally favourable impression of the health-care services at Tartu Prison in terms of staffing levels, facilities and medical screening. That said, at the time of the visit, all patients in the establishment's psychiatric unit were locked up alone in their rooms all day (apart from one hour of outdoor exercise per day, in small individual cubicles). The CPT stresses that all psychiatric patients should benefit from a range of recreational and therapeutic out-of-cell activities, in addition to pharmacological treatment, and that they should, as far as possible, be allowed to associate with other patients.

As regards discipline, the CPT expresses its serious concern that hardly any of the specific recommendations made after the 2012 visit have been implemented. In particular, the maximum time-limits for disciplinary solitary confinement remained unchanged (i.e. up to 45 days for adults and up to 20 days for young offenders). It is of all the more concern that, in particular at Viru Prison, multiple disciplinary sanctions of solitary confinement were still being imposed consecutively, which in a number of cases resulted in very long periods of solitary confinement (in one case, 225 days). Overall, resort to solitary confinement as a punishment appeared to be widespread in all three prisons, and, at Viru Prison, this practice appeared to be particularly excessive. The CPT recommends once again that, for adult prisoners, the maximum period of solitary confinement as a punishment for a given offence be limited to 14 days, and preferably less, and that no prisoner be held continuously in disciplinary isolation for longer than the maximum time-limit. In addition, the Committee considers that solitary confinement as a punishment should no longer be imposed on juvenile prisoners.

The report also deals with the situation of prisoners who were segregated from other inmates and subjected to cellular confinement as a security measure (under Section 69 of the Imprisonment Act). The CPT expresses concern about the very restrictive regime which, in the case of prisoners accommodated in single cells, was tantamount to solitary confinement, often for prolonged periods. The Committee recommends that all segregated prisoners benefit from a structured programme of purposeful and preferably out-of-cell activities and that all such prisoners who are subjected to solitary confinement be provided, on a daily basis, with meaningful human contact. The aim should be that the prisoners concerned benefit from such contact for more than two hours per day.

Valgejõe Training Centre of Maarjamaa Education Institute

The delegation received no allegations of ill-treatment by staff at the Centre. On the contrary, all juveniles interviewed by the delegation spoke positively about staff. Further, violence amongst juveniles did not appear to be a major problem. When such incidents occasionally occurred, staff usually intervened promptly by applying de-escalation techniques.

Material conditions in the Centre were of a very good standard, and all juveniles were offered a wide range of educational and recreational activities. The CPT gained a particularly positive impression of the Centre's pedagogical approach towards juveniles, which was clearly aimed at promoting the juveniles' sense of responsibility and fostering their social skills rather than punishing them. That said, the Committee urges the Estonian authorities to ensure that all juveniles are offered access to the outdoor yard for at least two hours per day, and preferably more.

As regards health care, the delegation was impressed by the professional and proactive attitude of the Centre's nurse who worked in the Centre on a full-time basis. However, the CPT expresses concern that the treatment of juveniles with a psychiatric diagnosis was mainly based on psychotropic drugs. Further, the CPT recommends that the authorities redouble their efforts to fill the current staff vacancies as a matter of priority (including the post of a psychologist and other key personnel in charge of working with the juveniles towards rehabilitation and reintegration).

Finally, the Committee praises the Centre's flexible and generous policy towards the juveniles' contact with the outside world which included possibilities for frequent visits, access to telephone and emails several times a week, and regular home leave.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to Estonia from 27 September to 5 October 2017.¹

2. The main objective of the visit was to review the measures taken by the Estonian authorities to implement the recommendations made by the Committee after previous visits. In this context, particular attention was paid to the treatment and conditions of detention of persons held by the police as well as to the situation in the country’s prisons.

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

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

- Georg Høyer (Head of Delegation)
- Per Granström
- Inga Harutyunyan
- Jari Pirjola
- Vytautas Raškauskas
- Antonius Maria Van Kalmthout

They were supported by Aurélie Pasquier and Almut Schröder of the CPT’s Secretariat and assisted by:

- Vincent Theis, former Director of Luxembourg Prison, Luxembourg (expert)
- Marje Einre (interpreter)
- Meelis Leesik (interpreter)
- Margus Puusepp (interpreter)
- Karin Sibul (interpreter)
- Tiiu Soomer (interpreter)
- Viivi Verrev (interpreter).

¹ The CPT’s reports on previous visits to Estonia and related Government responses are available on the Committee’s website: www.coe.int/en/web/cpt/estonia

4. The visit report was adopted by the CPT at its 95th meeting, held from 5 to 9 March 2018, and transmitted to the Estonian authorities on 26 April 2018.

The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Estonian authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report. As regards the request for information in paragraph 38, the CPT asks for the response to be provided within three months.

B. Consultations held by the delegation and co-operation

5. In the course of the visit, the delegation held consultations with Urmas Reinsalu, Minister of Justice, Priit Kama, Deputy Secretary General for Prisons from the Ministry of Justice, Raivo Küüt, Deputy Secretary General for Public Order and Migration Policy from the Ministry of the Interior and other senior officials from the Ministries of Justice, the Interior and Education and Research.

Further, the delegation met Heili Sepp, Deputy Chancellor of Justice (Ombudsman), and other senior representatives from the Chancellor of Justice's Office, involved in the operation of the National Preventive Mechanism (NPM) established under the Optional Protocol to the United Nations Convention against Torture (OPCAT).

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

6. The co-operation received throughout the visit, from both the national authorities and staff at the establishments visited, was excellent. The delegation enjoyed rapid access to all the places visited (including those which had not been notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty. The delegation also expresses its appreciation for the assistance provided before and during the visit by the CPT's liaison officer, Ms Laura Glaase, from the Ministry of Justice.

That said, the Committee wishes to stress that the principle of co-operation as set out in Article 3 of the Convention is not limited to facilitating the work of visiting delegations, but it also requires that recommendations made by the Committee are effectively implemented in practice. In this respect, the CPT is very concerned by the lack of progress in a number of areas, such as the material conditions in several police detention houses and the continued practice of holding remand prisoners in police establishments, as well as the regime provided to remand prisoners in detention houses and prisons and the frequent and prolonged recourse to solitary confinement in prison.

The CPT urges the Estonian authorities to take decisive steps to address these issues in the light of the recommendations made in the present report, in accordance with the principle of co-operation which lies at the heart of the Convention.

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

7. During the end-of-visit talks with the Estonian authorities on 5 October 2017, the CPT's delegation outlined the main findings of the visit and, on that occasion, made two immediate observations under Article 8, paragraph 5, of the Convention on certain particularly urgent matters, one concerning conditions in some police establishments and one concerning resort to disciplinary solitary confinement at Viru Prison.

The first immediate observation was principally made in respect of Valga Detention House, where the material conditions of detention were found to be appalling. The delegation requested the Estonian authorities to make plans either to take this establishment out of service or to fully refurbish it. In the meantime, no person should be held at the detention house beyond the maximum period of police custody (i.e. 48 hours). Further, the delegation requested that the establishment's two small waiting cells on the ground floor – measuring less than 2 m² – should not be used for more than very brief waiting periods.

As regards Haapsalu, Tartu and Valga Detention Houses, as well as Tallinn East Police Station, the delegation also requested that the authorities ensure that cells measuring less than 5 m² are no longer used for overnight stays.

The second immediate observation concerns the excessive use of disciplinary solitary confinement at Viru Prison. The delegation requested that the Estonian authorities review current practice in this regard at that establishment. In particular, it requested that steps be taken to reduce the maximum duration of disciplinary solitary confinement for adults to 14 days, and that there be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period.

8. The above-mentioned immediate observations were subsequently confirmed in a letter of 29 November 2017 from the Executive Secretary of the CPT. The delegation requested the Estonian authorities to provide, within three months, an account of the steps taken in response.

By letter of 26 February 2018, the Estonian authorities informed the CPT of the measures taken in respect of the immediate observations. These measures will be assessed in the relevant sections of the present report.

D. National Preventive Mechanism

9. At the outset of the visit, the delegation held an exchange of views with members of the Office of the Chancellor of Justice (Ombudsman), which is the designated NPM in Estonia. In this capacity, it had conducted around 35 visits to a variety of places of detention in 2016 (prisons, police stations, social care homes, institutions for children, psychiatric or military establishments, etc.). During the same year, the Office of the Chancellor of Justice had received approximately 500 communications from persons deprived of their liberty, mostly from the prisons. An annual report was published in Estonian, with a short summary in English.

The CPT welcomes the fact that, following a specific proposal made by the Committee in the 2012 visit, a separate unit had been set up within the Office of the Chancellor of Justice, to be responsible for the NPM functions. Four persons had been assigned to NPM activities. Two additional positions had become vacant and would soon be filled. When required, experts may be recruited to take part in visits.

However, there was no separate budget for NPM activities and it remained the case that the staff assigned to the NPM unit were also involved in the processing of complaints.

In this connection, the CPT recalls the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture (SPT)² in 2010, which specify that “[w]here the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget”.

Further, in the CPT’s experience, it is not advisable to involve staff dealing directly with complaints in the work of the NPMs. Where the same institution is designated to handle complaints and to monitor places of deprivation of liberty, both functions should preferably be kept separate and performed by clearly distinct entities.

The CPT invites the Estonian authorities to review the organisation and functioning of the NPM in the light of the preceding remarks.

² See paragraph 32 of [CAT/OP/12/5](#) (9 December 2010).

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Establishments under the Ministry of the Interior

1. Preliminary remarks

10. One of the main objectives of the visit was to examine the treatment and conditions of detention of persons deprived of their liberty by the police. For this purpose, the delegation visited the police detention houses (also called “arrest houses”) in Haapsalu, Pärnu, Tallinn, Tartu and Valga,³ as well as Tallinn City Centre and Tallinn East Police Stations, and interviewed numerous persons detained by the police.

11. As regards the legal framework, a new Law Enforcement Act (LEA) entered into force in 2014, regulating the powers of the police in general and police activities in cases other than criminal prosecution, replacing the Police Act which had since been abolished.

However, the legal grounds for the deprivation of liberty of *criminal suspects* remained by and large unchanged since the CPT’s last periodic visit in 2012. It is recalled that according to the 2004 Code of Criminal Procedure (CCP) criminal suspects may be held in police custody for a maximum period of 48 hours.⁴ Within this 48-hour period, the persons concerned have to be brought before a preliminary investigation judge, who decides whether to detain them on remand, to impose other preventive measures on them or to release them. Persons may also be held in police custody (for a maximum period of 48 hours) when they are *suspected of having committed a misdemeanour*.⁵

According to the new Law Enforcement Act, persons may be deprived of their liberty by the police on various *other legal grounds*, such as to prevent the commission of an imminent criminal offence, for countering an immediate threat endangering a person’s life or physical integrity (both for a maximum period of 48 hours),⁶ or to avert a significant threat emanating from an intoxicated person⁷ (for a maximum period of 24 hours).

12. As previously, the CPT notes with great concern that police detention houses were not only used for police custody, but also for accommodating remand prisoners (as well as persons sentenced for having committed a misdemeanour) and that for prolonged periods. As stated in previous visit reports, the CPT remains of the opinion that such establishments are unsuitable for prolonged periods of detention. In this regard, **reference is made to the remarks and recommendations made in paragraphs 35 to 39.**

13. As regards the practice of holding in detention houses (for a maximum period of 30 days) persons sentenced for having committed a misdemeanour, **the CPT encourages the authorities to either significantly reduce the maximum duration of such detention or to abolish that type of sanction altogether, in line with the trend observed by the Committee in several other European countries.**

³ At Haapsalu and Valga Detention Houses, the delegation focused mainly on the conditions of detention.

⁴ Section 217 (1) and (8) of the CCP.

⁵ Section 44 of the Code of Misdemeanour Procedure (CMP).

⁶ Section 46 (1) and (5) of the LEA.

⁷ Sections 42 (1) and 43 (3) of the LEA.

14. On a positive note, persons sentenced to (short) prison terms are no longer included in the categories of persons who may be held at a detention house,⁸ and indeed the delegation did not meet any such prisoners at detention houses. This is a welcome improvement.

2. Ill-treatment

15. The CPT is pleased to note that, as in 2012, its delegation received hardly any allegations of physical ill-treatment by police officers from detained persons who were or had been held in police custody or who were being detained in police detention houses.

16. However, already at this point, the Committee must stress that a number of remand prisoners were being held in police detention houses under conditions of detention which, in its view, can be considered to be inhuman and degrading. For further details, see paragraphs 35 to 39.

3. Fundamental safeguards against ill-treatment

17. The vast majority of detained persons interviewed by the delegation confirmed that they had been in a position to exercise their right of notification of custody to a third person shortly after apprehension. However, a few detainees claimed that their next-of-kin had been notified only after several days.

The CPT trusts that the Estonian authorities will make further efforts to render fully effective in practice the right of persons deprived of their liberty by the police to inform a relative or another third party of their situation, as from the outset of their deprivation of liberty.

18. The legal provisions granting criminal suspects, as well as persons suspected of having committed a misdemeanour, immediate access to a lawyer have remained unchanged since the CPT's previous visits. It is recalled that the relevant legal provisions include the right to be interrogated in the presence of a lawyer and to confer with a lawyer in private.⁹

19. As was the case in 2012, criminal suspects interviewed by the delegation generally indicated that they had been allowed to contact their own or an *ex officio* lawyer. Contrary to the situation found in 2012, the information gathered during the visit further indicated that *ex officio* lawyers were usually present during questioning by a police officer. This is a welcome improvement, given that the physical presence of a lawyer during the stage of police custody is an essential safeguard to prevent ill-treatment and intimidation. Moreover, such a presence also facilitates the countering of unfounded allegations of ill-treatment or intimidation.

⁸ Section 3 of the Internal Detention House Rules (Regulation No. 21 of the Minister of the Interior dated 27 September 2011).

⁹ Sections 33 (2), 34 (1) 5. and 45 (1) of the CCP as well as Section 19 (2) of the CMP.

20. The Committee has recommended since its very first visit to Estonia in 1997 that steps be taken to ensure that persons in police custody are formally entitled and granted in practice the express right of access to a doctor as from the very outset of their deprivation of liberty. Regrettably, these recommendations remain unimplemented.¹⁰

As was the case during the 2012 visit, some detainees indicated that their request to see a doctor had been denied. A few detainees further stated that their on-going medical treatment had to be interrupted as they had not been able to obtain their medicines at the detention house.

Staff of the detention houses visited told the delegation that the only way for detainees to be seen by a doctor was when the police called an ambulance. This was done in more serious cases. In all other cases, when a detainee needed medical assistance, a police officer would inform the detainee's family or his/her doctor by telephone about the detainee's ailment in order to obtain the necessary medicine. This is not acceptable and in addition it constitutes a violation of medical confidentiality.

The CPT once again calls upon the Estonian authorities to take the necessary measures – including at the legislative level – to ensure that all persons detained by the police are formally entitled and granted in practice the right to have access to a doctor - including one of their own choice – as from the very outset of their deprivation of liberty (it being understood that an examination by a doctor of the detainee's own choice may be carried out at his/her own expense). This should also enable all persons in police detention to continue any necessary medical treatment prescribed to them prior to their detention. As regards the Estonian authorities' plans to improve health services in police detention houses, reference is made to paragraph 36.

21. Further, many detainees interviewed at Tallinn Detention House told the delegation that during the health-care interview (or during the basic physical examination) by the nurse, custodial staff were frequently present. **The CPT recommends that in order to preserve medical confidentiality, medical consultations should always be conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.**

22. The CPT's delegation gained the positive impression that detainees were verbally informed about their rights immediately upon their apprehension. It is another welcome improvement that the short information sheets given to them explained their rights in a concise and user-friendly manner.

23. As regards detained juveniles,¹¹ it is a welcome development that the Code of Criminal Procedure¹² now provides for an obligation to immediately notify the juvenile's legal representative of the detention as recommended by the Committee in its previous reports.¹³ It is also positive that the presence of a lawyer is required by law for juvenile criminal suspects throughout the criminal proceedings, taking account of their particular vulnerability.¹⁴

¹⁰ The 2011 Internal Detention House Rules still do not guarantee the detainee's explicit right of access to a doctor, but only provide that "[i]f necessary, a medical examination of a detained person shall be arranged by a health-care provider" (Section 10 (3)).

¹¹ Between 14 and 18 years of age.

¹² Section 217 (10) of the CCP.

¹³ Similar provisions are contained in Section 46 (4) of the CMP and Section 46 (2) of the LEA.

¹⁴ Section 45 (2) 1 of the CCP.

However, the CPT is concerned that in practice such juveniles were apparently occasionally questioned and/or requested to sign a document concerning the offence(s) they were suspected of having committed without the presence of a lawyer and/or a trusted adult person.

The CPT trusts that the Estonian authorities will take the necessary measures to ensure that juveniles are never subjected to police questioning or requested to make any statement or to sign any document concerning the offence(s) they are suspected of having committed without the presence of a lawyer and, whenever feasible, a trusted adult person.

4. Conditions of detention

a. police detention houses

24. The CPT acknowledges the recent and on-going efforts by the Estonian authorities to improve the material conditions in detention houses. However, the Committee must express its serious concerns about the appalling material conditions found at Pärnu, Tallinn and Tartu Detention Houses and in particular at Valga Detention House.

The cells in all four establishments were in a deplorable state of repair (flaking paint and crumbling plaster, scratched walls, rusted-through metal panelling, missing tiles) and the cells at Valga Detention House were particularly decrepit. Further, some cells in the detention houses visited were filthy (Valga, Tartu) and poorly ventilated (e.g. Tallinn) and in many cells the only source of drinking water was a tap placed directly above a floor-level toilet (e.g. Valga, Tallinn). Moreover, in some cells designed for multiple-occupancy¹⁵ the toilets were not partitioned from the rest of the cell (Tartu).

In respect of Pärnu Detention House, the Estonian authorities informed the CPT by letter of 26 February 2018, that the construction of a new detention house is planned to start in 2019.

25. As regards Haapsalu Detention House, the detention area had been renovated to some extent. As compared to 2012, the conditions in the cells had improved in terms of state of repair, cleanliness, ventilation and access to artificial lighting.

26. While appreciating that cells in the detention houses visited were generally not overcrowded,¹⁶ the CPT is concerned about the small size of some of the cells seen by its delegation. For instance, at Tartu Detention House, police custody cells Nos. 118 and 217 measure less than 4 m². At Valga Detention House, sobering-up cells Nos. 1 and 2 measure scarcely 5 m² and 3.5 m² respectively, and two waiting cells with a metal grille gate facing into the corridor (on the ground floor) measure slightly less than 2 m². Further, at Haapsalu Detention House, with the exception of a larger sobering-up cell, none of the cells measured more than 5 m².

¹⁵ It should however be underlined that at the time of the visit none of the multiple-occupancy cells seen by the delegation at the detention houses concerned accommodated more than one person.

¹⁶ According to the Ministry of the Interior, the overall occupancy rate in detention houses was generally about 50%. However, the occupancy rate in Tallinn Detention House was usually close to 90%.

27. As already mentioned in paragraph 7, at the end of the visit, the delegation made an immediate observation concerning the material conditions in several police establishments. As regards Valga Detention House, the delegation requested the Estonian authorities to make plans either to take this establishment out of service or to fully refurbish it. In the meantime, no person should be held at the detention house beyond the maximum period of police custody (i.e. 48 hours). Further, the establishment's two small waiting cells on the ground floor – measuring less than 2 m² – should not be used for more than very brief waiting periods. Concerning Haapsalu, Tartu and Valga Detention Houses the delegation also requested that the use of any cell measuring less than 5 m² for overnight stays be discontinued immediately.

In their letter of 26 February 2018, the Estonian authorities informed the CPT of their plans to start reconstructing Valga Detention House in 2019 and to use the reconstructed detention house for police custody purposes only (up to 48 hours). However, at least until the opening of a new detention house in Tallinn, Valga Detention House would continue to be used for longer detention periods. As regards the use of cells measuring less than 5 m², the authorities in their letter state that police custody cells Nos. 118 and 217 at Tartu Detention House had been closed down after the CPT's visit. This is a welcome improvement.

28. Notwithstanding the above, **the CPT recommends that the Estonian authorities take the necessary measures to ensure that:**

- **no detained person is held at Valga Detention House beyond the maximum period of police custody (i.e. 48 hours);**
- **the two small waiting cells on the ground floor of Valga Detention House - measuring less than 2 m² – are no longer used for more than very brief waiting periods;**
- **cells measuring less than 5 m² at Valga and Haapsalu Detention Houses, as well as in other detention houses, are no longer used for overnight stays;**
- **the material shortcomings at Tallinn, Tartu, Haapsalu and Valga Detention Houses as described in paragraph 24 are remedied.**

29. It is positive that Estonian legislation provides that persons held at detention houses should be given access to the outside (“in the open air”) for at least one hour per day.¹⁷ However, in many detention houses this was unfortunately not the case. According to the representatives of the Ministry of the Interior met by the delegation at the outset of the visit, many detention houses in Estonia – including those in Haapsalu, Pärnu and Valga¹⁸ – were still not equipped with an outdoor yard. Regrettably, even the newly (re-)constructed detention houses at Narva and Võru had not been equipped with outdoor facilities. That said, the delegation was assured by the authorities that ways would be explored (and that funds had been set aside) to equip at least Võru Detention House with such a facility and that the new detention houses planned for construction in the coming years in Tallinn and Pärnu would be fitted with outdoor yards. This would be a step forward.

¹⁷ Section 93 (5) of the Imprisonment Act and Section 31 (2) of the Internal Detention House Rules.

¹⁸ At Valga Detention House, detainees were as a “compensation” offered access to a so-called “walking cell”. This was a small custody cell with a narrow opening (approximately 20 x 90 cm) in the wall just beneath the ceiling, which allowed some fresh air to enter. With a size of less than 4.5 m² and fitted with a bed, a toilet and a wash basin, it left hardly any space for movement and in any case did not serve its purpose. Clearly, access to a cell – whatever its size and equipment – cannot be considered an alternative to outdoor exercise.

As regards the detention houses which were equipped with yards, the CPT welcomes the fact that, at Tartu Detention House, many detainees told the delegation that they were offered access to the outdoor yards every day for one hour. However, this was apparently still not the case for persons held at Tallinn Detention House, despite the Committee's recommendation made to this effect in 2012. According to the large majority of detainees interviewed by the delegation at this establishment, access to the open air was offered on two to six days per week for no longer than half an hour at a time. Further, four of the six outdoor yards at Tartu Detention House and the yard at Tallinn Detention House were not equipped with any means of rest (e.g. a bench).

In the CPT's view, all persons who are detained by the police for 24 hours or more should be offered at least one hour of access per day to the open air in outdoor facilities which are equipped with a means of rest.¹⁹ **The Committee reiterates its recommendation that the Estonian authorities take the necessary steps to ensure that these precepts are implemented in practice in all police establishments in Estonia.**

30. The Committee is also concerned about the material conditions in security cell no. 3 at Tallinn Detention House. Apart from a toilet, this cell was totally bare and did not contain any means of rest (e.g. a chair, bench or bed). According to the register examined by the delegation, detainees were sometimes held in this cell overnight.²⁰ **The CPT recommends that the security cell at Tallinn Detention House be equipped with a suitable means of rest. The Committee would further like to receive confirmation that whenever a detainee is held in this cell overnight or for part of a night, he/she is provided with a mattress as also provided for by Section 13 (2) of the Internal Detention House Rules.**

b. other police detention facilities

31. The delegation examined detention conditions at Tallinn City Centre and Tallinn East Police Stations, where persons were held in police custody for up to 48 hours.

32. At Tallinn City Centre Police Station, material conditions in the custody cells were of a good standard and do not call for any particular comment.

33. However, as regards Tallinn East Police Station, the CPT notes with concern that the specific recommendations made by the Committee in the report²¹ on the 2012 visit have not been implemented. In fact, the conditions of detentions have further deteriorated since the last visit. Cells were dilapidated, poorly ventilated and in some cases very dirty (including the mattresses). In addition, most of the cells were lacking a means of rest (e.g. a fixed chair or bench).

Further, the cells measuring less than 5 m² (seven out of ten) were still used for overnight stays. In this regard, the delegation requested the Estonian authorities in its immediate observation at the end of the visit to ensure that an end is put to this practice (see also paragraph 7).

¹⁹ As regards remand prisoners, see also paragraphs 36 and 38.

²⁰ According to the registers examined, this cell was used 14 times in the first nine months of 2017. The length of detention never exceeded 23 hours, but in nine cases persons spent the night or part of it in this cell.

²¹ See CPT/Inf (2014) 1, paragraphs 37 and 38.

In their letter of 26 February 2018, the Estonian authorities informed the Committee that “detainees are kept in individual cells of more than 4 m² in size” at Tallinn East Police Station. The CPT recalls that in its view it would be desirable for police custody cells used as overnight accommodation to measure in the order of 7 m². **The Committee reiterates its recommendation that the use of any cell measuring less than 5 m² at Tallinn East Police Station for overnight stays be discontinued immediately.**

34. Moreover, neither of the two above-mentioned police stations comprised any outdoor exercise facility. In this respect, reference is made to the remarks and recommendation in paragraph 29.

5. Remand prisoners held in police establishments

35. As already mentioned in paragraph 12, the CPT has serious misgivings about the fact that, despite the specific recommendation repeatedly made by the Committee after previous visits, persons remanded in custody were frequently held in police detention houses beyond the period of police custody (pending their transfer to a prison) for one to four weeks or more, and in some cases even for several months. For instance, at the time of the visit, 48 remand prisoners were being held at Tallinn, 15 at Pärnu, 13 at Tartu and one at Haapsalu Detention House.

36. Whilst acknowledging the fact that the total number of remand prisoners held in detention houses in the country have significantly decreased since 2012 (from 550 to 182 at the time of the visit), the CPT must stress that, for several reasons, detention houses are not suitable for holding remand prisoners. The main shortcomings can be summarised as follows:

Firstly, as regards material conditions, most of the cells in the detention houses visited only had limited access to natural light²² and the living space in some cells was insufficient for remand detention. For instance, at Haapsalu Detention House, practically none of the cells measured more than 5 m². In the CPT’s view, all prisoners – including those on remand – should be provided with at least 6 m² of living space in a single-occupancy cell or, with at least 4 m² per prisoner in a multiple-occupancy cell (in both cases excluding the sanitary facilities).²³

Secondly, several detention houses (i.e. Haapsalu, Pärnu and Valga) lacked any outdoor exercise facilities. Further, in Tartu Detention House, the outdoor “exercise” facilities consisted of cubicles which measured not more than 6 m² each. In the CPT’s view, remand prisoners should have daily access to outdoor exercise facilities that are sufficiently large for them to be able to exert themselves physically.

²² In most cells, the windows were very small and usually consisted either of glass bricks or opaque window panes or were darkened by narrow wire mesh, bars or shutters. In addition, some cells at Haapsalu, Tartu and Valga Detention Houses did not have access to natural light at all, but were reportedly only used for periods of detention of up to 48 hours.

²³ See also the CPT’s standards on living space per prisoner: [CPT/Inf \(2015\) 44](#).

Thirdly, in none of the detention houses visited were any kind of other out-of-cell activities offered. Consequently, detainees – including juveniles – were usually confined to their cells for 23 to 24 hours a day, the great majority of them alone, *de facto* being held in conditions akin to solitary confinement for weeks or even months on end. The persons concerned spent their days in the cells in a state of idleness, where the only activity offered to them was reading books. At Tallinn Detention House, the delegation was told that detainees were generally not allowed to have a television set in their cells.²⁴

Fourthly, persons remanded in custody were still held at police detention houses without having been subject to medical screening. Only two detention houses countrywide – at Tallinn and Jõhvi – benefited from the presence of health-care staff.²⁵ However, even at Tallinn Detention House, where this was the case, the delegation gained the impression that while the nurse interviewed all detainees upon their arrival and asked them to fill out a questionnaire²⁶ about their state of health, many of the detainees had not been physically examined.²⁷ In other detention houses, custodial staff (who had usually only received first aid training) and/or the detainees themselves partially filled out the health questionnaire, leaving the fields for medical assessment blank. Such practices clearly cannot replace a comprehensive physical admission examination.

In this regard, the CPT welcomes the information received by letter of 26 February 2018 from the Estonian authorities, according to which the provision of health services in detention houses is currently dealt with by the police as a matter of priority, in co-operation with the Ministry of Social Affairs, the Health Board and the Health Insurance Fund.²⁸

Fifthly, remand prisoners held in detention houses were subjected to severe restrictions in terms of contact with the outside world. In at least two of the detention houses visited, only one visit was permitted per month which could last no longer than 10 to 15 minutes, reportedly due to the lack of adequate visiting facilities and/or supervisory staff. Moreover, the delegation was informed that inmates sometimes could not make phone calls – especially at the beginning of their detention and sometimes not at all – because they did not possess the necessary phone card.²⁹ In the CPT's view, remand prisoners should be entitled to at least one visit of one hour every week and should, as a rule, have regular access to a telephone.

37. In the CPT's view, the detention of remand prisoners for prolonged periods in the poor material conditions described above combined with the total lack of out-of-cell activities could amount to inhuman and degrading treatment, all the more so if the persons concerned are *de facto* held in solitary confinement.

²⁴ In the other detention houses visited, having a television set was generally permitted. That said, television sets could not be used at Haapsalu Detention House where cells did not have any sockets.

²⁵ As compared to five in 2012.

²⁶ The questionnaire included questions on the detainee's medical history/anamnesis and his/her current state of health (e.g. blood pressure, results of auscultation of heart and lungs, and of stomach palpation, as well as a field for conclusions).

²⁷ Only about half of the detainees interviewed told the delegation that the nurse had carried out a basic physical examination.

²⁸ The authorities further state in their letter that the employment of health-care professionals was planned for Tallinn, Tartu, Jõhvi and Pärnu Detention Houses as from the second half of 2018 while in smaller detention houses "the reception of a nurse is provided on a stationary basis".

²⁹ This card could not be purchased by inmates directly. They had instead to rely on friends or family to buy them one in a local kiosk. This was particularly problematic for foreign detainees.

Further, the CPT must stress once again that as a matter of principle remand prisoners should not be held in police detention facilities. In the CPT's experience, prolonged detention in police premises after the remand prisoner has been brought before a judge generally increases the risk of intimidation and physical ill-treatment by police officers. Instead, they should be promptly transferred to a prison establishment.³⁰

As regards the detention houses in Tartu and Tallinn, the Committee notes that neither Tartu nor Tallinn Prison was operating at full capacity (see paragraph 41). Thus, it is all the more unjustified that remand prisoners were being held in a police establishment next door to the prison (in Tartu) and in close proximity to the prison (in Tallinn).

38. In the light of the remarks made in paragraphs 35 to 37, **the CPT calls upon the Estonian authorities to take swift and decisive action to put an end to the practice of holding remand prisoners beyond the period of police custody in police detention houses. The CPT requests that it be provided, within three months, with a detailed action plan containing precise deadlines for the steps taken to achieve this objective.**

Further, **the Committee recommends that an immediate end be put to the practice of accommodating remand prisoners:**

- **at Tallinn, Tartu and Viru Detention Houses which are located in close proximity of a prison;**
- **in detention houses which do not have outdoor exercise facilities.**

Finally, **pending the complete and definitive end of the use of other detention houses for holding remand prisoners, steps should be taken to ensure that the persons concerned:**

- **are accommodated in the detention house for only the shortest possible time;**
- **are accommodated in cells of sufficient size with adequate access to natural light;**
- **are subjected to a comprehensive medical examination by a qualified health-care professional within 24 hours of being remanded in custody;**
- **are offered at least one hour of access to the open air every day;**
- **are offered some activities and diversions (e.g. newspapers, TV, board games);**
- **can receive at least one visit of one hour per week and have regular access to a telephone.**

³⁰ This is also stated in Rule 10.2 of the European Prison Rules: "In principle, persons who have been remanded in custody by a judicial authority and persons who are deprived of their liberty following conviction should only be detained in prisons, that is, in institutions reserved for detainees of these two categories."

39. The CPT is also concerned about the continued practice of returning remand prisoners from prison to a police detention house for the purpose of investigative work. The decisions on such transfers were taken by the investigator in charge of the case and such returns could reportedly last for up to several weeks.

Apart from the very poor conditions prevailing in some detention houses, it is far preferable from the standpoint of prevention of intimidation and ill-treatment that further questioning of remand prisoners is undertaken by investigators in prison rather than on police premises. **The Committee therefore reiterates its recommendation that the Estonian authorities take steps – including at the legislative level – to ensure that the return of remand prisoners to police detention facilities is sought only very exceptionally, for specific reasons and for the shortest possible time. Further, such a return should in each case be subject to the express authorisation of a prosecutor or judge. As a rule, the prisoners concerned should not be held overnight in police establishments.**

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

40. At the time of the visit, the renewal of the Estonian prison estate was still in progress. Since the CPT's 2012 visit, two prisons had been decommissioned and a new prison was under construction in Tallinn. In the course of the 2017 visit, the delegation visited all three operational prisons in the country, namely Tallinn, Tartu and Viru Prisons.

The main objective of the visit was to review the measures taken by the Estonian authorities to implement a number of recommendations made by the Committee after previous visits. In this context, particular attention was paid to the treatment and conditions of detention as well as to disciplinary and security measures.

41. *Tallinn Prison* has been visited by the CPT several times, most recently in 2012.³¹ It is planned to be closed down once the new prison is opened (scheduled for 1 December 2018). With an official capacity of 847 places (including 124 places in the open prison), the prison was accommodating, at the time of the 2017 visit, a total of 781 prisoners, including 267 remand prisoners, 106 women (sentenced and remanded), and 100 prisoners who were being held in a detached open unit.

Tartu Prison was visited by the Committee once in 2003, shortly after its opening. In 2015, an open unit was annexed outside the security perimeter. With an official capacity of 993 places, the prison was accommodating at the time of the visit 942 prisoners, including 72 remand prisoners, 17 women (sentenced and remanded; four being accompanied by a young child), 22 life-sentenced prisoners and 41 prisoners in the open unit. The prison also comprises an in-patient psychiatric unit with 18 beds.

Viru Prison, opened in 2008, was visited by the Committee for the first time in 2012.³² It is the only prison in the country with a high-security unit (so-called "Supermax" with a capacity of 84 places) and a unit for young offenders (capacity: 100 places³³). Since 2012, the official capacity of the prison has been slightly increased from 1,000 to 1,075 places. At the time of the visit, it was accommodating 873 prisoners (including 11 women), of whom 86 were on remand and 19 had been sentenced to life imprisonment; 46 sentenced prisoners were being held in the high-security unit, and 93 inmates (21 juveniles and 72 young adults aged 18 to 21) in the unit for young offenders.

42. At the time of the 2017 visit, the total official capacity of the prison estate was 2,915 places, and, as indicated above, none of the three prisons had reached its maximum capacity. In this regard, the CPT acknowledges the efforts made by the Estonian authorities to provide prisoners with adequate living space. In particular at Tartu and Viru Prisons, all prisoners were offered at least 4 m² per person in multiple-occupancy cells.

³¹ See CPT/Inf (2014) 1, paragraphs 50 to 60.

³² See CPT/Inf (2014) 1, paragraphs 61 to 74.

³³ The official capacity of the unit had been reduced from 200 to 100 places in order to allow inmates to be accommodated in single cells.

That said, it is matter of concern that, despite the specific recommendation repeatedly made by the Committee after previous visits, the legal minimum standard of living space per prisoner still remained at 2.5 m²³⁴ and that, at Tallinn Prison, a number of prisoners were offered less than 4m² per person (see paragraph 48).

The Estonian authorities indicated that they were confident that, after the opening of the new prison in Tallinn, all prisoners would be provided with at least 4 m² of living space per person. **The CPT trusts that this will indeed be case and urges the Estonian authorities to raise the legal minimum standard of living space per prisoner in multiple-occupancy cells to 4 m² (not counting the area taken up by in-cell sanitary facilities) without any further delay.**

43. Since 2012, the total prison population has decreased from 3,389 to some 2,600. It is particularly noteworthy that, during the same time, the number of remand prisoners held in police detention houses has also been drastically reduced (for further details, see paragraph 36). Consequently, the national incarceration rate has decreased since 2012 from 250 to 210 inmates per 100,000 inhabitants. According to the authorities, this decrease was the result of a combination of changes: the Penal Code had been revised, de-criminalising a number of acts, and misdemeanour attempts were no longer punishable. Fewer persons were incarcerated pending trial, and a broader resort was made to probation and community services, while electronic surveillance had developed, albeit only slowly (around one hundred cases).

Whilst acknowledging these measures, the CPT notes that Estonia still has one of the highest national incarceration rates of the Council of Europe's member States. At the outset of the visit, the Estonian authorities explained how they were exploring avenues to further reduce the imprisonment rate through a series of additional measures, such as providing alternatives to imprisonment for individuals sentenced to longer than two years³⁵, or shortening the period of time following which prisoners serving life sentences could apply for conditional release.

The CPT encourages the Estonian authorities to pursue their efforts to develop non-custodial measures before the imposition of a sentence, alternatives to imprisonment and measures facilitating the reintegration into society of persons deprived of their liberty. The relevant Recommendations of the Committee of Ministers of the Council of Europe,³⁶ as set out in the previous CPT report,³⁷ should continue to guide such efforts.

44. As indicated above, all juvenile prisoners are held in the unit for young offenders at Viru Prison. The CPT has long advocated that all detained juveniles who are suspected or convicted of a criminal offence should be held in detention centres specifically designed for persons of this age, offering a non-prison-like environment. In this regard, the delegation was informed by the Estonian authorities that they were considering transferring all juvenile prisoners to dedicated institutions in the near future. **The CPT would like to receive updated information on these plans.**

³⁴ See Section 6 (6) of the Internal Prison Rules.

³⁵ Currently, alternatives to imprisonment are only possible in the case of sentences under two years.

³⁶ Recommendation Rec (99) 22 concerning prison overcrowding and prison population inflation, Recommendation (Rec (2000) 22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole), Recommendation (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules.

³⁷ See CPT/Inf (2014) 1, paragraph 44.

2. Ill-treatment

45. The delegation received hardly any allegations of physical ill-treatment by staff at Tallinn and Tartu Prisons, while a few allegations of excessive use of force by prison officers in the context of incidents were heard at Viru Prison.

Further, in all three establishments visited, the delegation received some allegations of verbal abuse by prison officers.

The CPT recommends that the Estonian authorities reiterate to prison officers in all three prisons that all forms of ill-treatment of prisoners, including verbal abuse and the excessive use of force when dealing with incidents, are not acceptable and will be punished accordingly.

46. In the report on the 2012 visit, the CPT expressed its serious misgivings about the fact that (criminal) investigations into allegations of ill-treatment by staff of a prison were carried out by the establishment's Security Department.³⁸ At the outset of the visit, the delegation was informed that, following an internal re-organisation, the responsibility for the carrying out of such investigations had been transferred from the Security Department to the Internal Audit Unit of every prison.

Whilst acknowledging that the staff of the internal audit units report directly to the prison governor and operates under the supervision of a prosecutor, the CPT must stress once again that it is not acceptable that prison officers carry out investigations against colleagues from the same prison. Such investigations should always be carried out by a body which is independent of the prison concerned and preferably of the prison system as a whole. **The Committee reiterates its recommendation that the Estonian authorities take steps without further delay to ensure that this precept is effectively implemented in practice throughout the prison system and that the relevant legislation is amended accordingly.**

47. From the information gathered during the visit, it transpired that inter-prisoner violence did not constitute a major problem in any of the prisons visited. Staff appeared to be proactive in preventing such cases, and, whenever incidents did occur, appropriate steps were taken in a timely manner.

³⁸ See CPT/Inf (2014)1, paragraphs 45 to 47.

3. Conditions of detention

48. Material conditions of detention at Tallinn Prison remained substandard. Most of the cells were dilapidated, and sanitary facilities in particular were appalling.

Since the 2012 visit, the situation had somewhat improved in terms of occupancy levels but still remained unsatisfactory. Cells for remand prisoners measuring around 15 m² were holding up to four persons (compared to six in 2012), and many sentenced prisoners were being held under cramped conditions (in Block S1)³⁹; for instance, a cell measuring 31 m² could accommodate up to ten persons. The management indicated that, as a matter of policy, prisoners who benefited from an open door regime (cell doors being open from 6 a.m. until 10 p.m.) were held in the most overcrowded cells.

The CPT would like to receive updated information on the progress made to finalise the construction of the new prison in Tallinn and to withdraw the old premises from service.

49. At Tartu and Viru Prisons, material conditions were generally satisfactory.

However, as was the case in 2012, the delegation received a number of complaints from prisoners at Viru Prison that the windows could not be opened and that the ventilation was inadequate. **The CPT reiterates its recommendation that the Estonian authorities take the necessary measures to ensure that all cells at Viru Prison are adequately ventilated.**

50. Further, in all three prisons visited, the outdoor facilities for remand prisoners were inadequate. They consisted of small oppressive concrete cubicles (measuring only between 12 and 15 m² and covered with metal grilles) to which prisoners had access cell by cell (in pairs at Tartu and Viru Prisons and in groups of up to four inmates at Tallinn Prison). Further, none of the facilities was equipped with any shelter from inclement weather.

The CPT encourages the Estonian authorities to enlarge the outdoor facilities for remand prisoners at Tartu and Viru Prisons in order to allow the prisoners concerned to exert themselves physically. Steps should also be taken to provide some protection from inclement weather in outdoor exercise yards.

Further, **the Committee trusts that the Estonian authorities will take the necessary steps to ensure that the outdoor exercise facilities for remand prisoners in the new Tallinn Prison will be of an adequate size and less oppressive in design (e.g. allowing a horizontal view).**

51. In all three prisons, several complaints were heard that indigent prisoners were not provided with adequate clothing, and in particular at Tallinn Prison, some female prisoners claimed that the supply of personal hygiene products was insufficient. **Steps should be taken to remedy these shortcomings.**

³⁹ See also paragraph 42.

52. As regards the regime, the CPT acknowledges the efforts made by the Estonian authorities to provide *sentenced prisoners* with purposeful out-of-cell activities. It is also noteworthy that many sentenced prisoners benefited from an open-door regime for much of the day.

According to the documentation received during the visit, around one-third of the sentenced prisoners at Tallinn and Tartu Prisons were engaged in (part-time) work. At Viru Prison, all sentenced prisoners deemed to be medically fit were assigned some type of work, but the chores were divided among the prisoners to such an extent that they often represented as little as 30 minutes to one hour of work per day⁴⁰. Most of the work offered to prisoners in closed units involved maintenance and housekeeping, while other, more meaningful, work opportunities were scarce.⁴¹

Further, at Tallinn Prison, almost one-third of the sentenced prisoners had access either to education (including language classes in Estonian) or to vocational training in workshops (such as carpentry, shoe repairs, welding and metalwork). At Tartu and Viru Prisons, such activities were offered to approximately one-fifth of the sentenced prisoners.

About a quarter of convicts at Tallinn and Tartu Prisons had taken part in a counselling or social work activity. Around 10% had benefited from similar activities at Viru Prison.

In all three establishments, sport and various other recreational activities (e.g. art, music, hobbies) were available, but only a limited number of prisoners benefited from the latter.

In conclusion, a considerable number of sentenced prisoners were not provided with any purposeful activities on a regular basis.

53. In the three prisons, *remand prisoners* generally had only very few opportunities for work and educational activities.⁴² Further, they were usually not allowed to use the existing sports facilities, and other recreational activities were very limited.

In practice, apart from daily outdoor exercise for one hour (in a small cubicle as described in paragraph 50) and occasional social counselling sessions, the vast majority of remand prisoners remained locked up in their cells all day long for months and, in some cases, even years on end, their only occupation being watching television, reading and playing board games. Such a state of affairs is not acceptable.

By letter of 26 February 2018, the Estonian authorities informed the CPT that the prison administrations are working to involve more remand prisoners in out-of-cell activities and that all remand prisoners can take part in individual counselling with a social worker, psychologist or chaplain, have access to the chapel and participate in various activities.

⁴⁰ It is recalled that, according to Section 37 of the Imprisonment Act, sentenced prisoners (up to the age of 63) are obliged to work, unless they are exempted from work for medical reasons or are taking part in educational or vocational training activities.

⁴¹ At Tartu Prison, 25 inmates were assembling barbeque grills for an external company.

⁴² For instance, at Tallinn Prison, seven remand inmates were enrolled in formal education and five attended Estonian language courses.

54. The CPT also has serious misgivings about the fact that, according to the relevant legislation,⁴³ remand prisoners were normally not allowed to associate with prisoners from other cells. In practice, this meant that many prisoners who were accommodated in double cells only had access to the outdoor facility with their cellmate.

55. The CPT calls upon the Estonian authorities to take the necessary steps at Tartu and Viru Prisons to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for all prisoners, including those on remand, and to amend, if necessary, the relevant legal provisions accordingly. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with a vocational value; education; sport; recreation/association). The longer the period for which prisoners are detained, the more developed should be the regime offered to them.

Further, the Committee would like to be informed of the arrangements which are being made for out-of-cell activities for sentenced and remand prisoners in the future Tallinn Prison.

56. Tartu Prison also comprised a Mother and Child Unit which, according to the authorities, will be transferred to the new prison in Tallinn once the latter is operational. At the time of the visit, the Mother and Child Unit was accommodating four mothers with young children.

Conditions were generally adequate, with appropriate living space and dedicated equipment in the cells, including toys, for infants. Access to the open air was allowed three times per day. Mothers received baby parcels for free, along with a monthly child support allowance. Young children could interact with each other at certain times of the day. Arrangements had been made for one of them to attend a kindergarten outside the prison.

That said, one disadvantage was that the unit was located within the section used for the long-term family visits. Whenever such visits took place, all the rooms in the Mother and Child Unit had to remain locked. Further, despite the fact that women and children could meet in a common space which included a kitchen, there was no equivalent of a nursery or kindergarten-type facility inside the unit.

The CPT trusts that the Estonian authorities will take the necessary steps to ensure that the Mother and Child Unit in the new Tallinn Prison will be designed as a separate, closed-off section, which also comprises a suitably-equipped nursery or kindergarten-type facility; this may also facilitate the participation of mothers in work and other activities inside the prison.

⁴³ Section 90 (5) of the Imprisonment Act reads as follows: "The prison service or house of detention is required to take all measures to prevent any communication between persons in custody who are lodged in different cells".

57. In the unit for young offenders at Viru Prison, cell doors were as a rule open for a total of 4 ½ hours per day (including for outdoor exercise). In addition, sentenced juveniles benefited throughout the day from a range of educational, social and recreational activities and vocational training (e.g. cooking).

That said, the delegation was not in a position to obtain a clear picture of the regime activities which were being offered to juvenile remand prisoners. **The CPT wishes to receive a detailed account of all out-of-cell activities which are offered to juvenile remand prisoners every week.**

4. Health-care services at Tartu Prison

58. Health-care staffing levels were generally adequate. The prison employed about 40 health-care staff, totalling 28.15 full-time positions. These included three full-time general practitioners' posts, 3.5 full-time psychiatrists' posts, one full-time dentist and several part-time specialists (such as a radiologist, infectious disease specialist, surgeon, neurologist, ophthalmologist, gynaecologist), and 16.75 nursing posts.

At the time of the visit, most of the posts were filled. However, of the 3.5 full-time psychiatrists' posts, only the equivalent of 1.8 posts were filled at the time of the visit. In order to mitigate this situation, two clinical psychologists and one psychiatric nurse had been employed. **The CPT trusts that an additional psychiatrist will be recruited in due time.**

Some shortcomings resulted from the allocation of the available human resources. While the staff presence was generally adequate during the day, it was considered to be insufficient outside of normal working hours, during weekends and holidays. At such times, two nurses were on duty. But of the two, one was assigned to the monitoring room of the psychiatric ward, whose rooms were all equipped with video-surveillance cameras. This meant that de facto, only one nurse was present to respond to the needs of the prison population. **The CPT recommends that the presence of qualified nurses outside normal working hours be increased.**

59. All newly-arrived prisoners were subjected to medical screening by a nurse (reporting to a doctor) who collected the medical history of the prisoner and performed a basic physical examination. The examinations also included screening for injuries, suicide risks, substance abuse and a mental health history. All newcomers underwent a chest X-ray and HIV testing was offered on a voluntary basis. As far as the delegation could ascertain, the medical files were properly kept.

That said, the delegation did not, however, gain a complete picture of the reporting procedure which was followed in the event that a traumatic injury was detected by medical staff upon admission. **The CPT would like to receive clarification from the Estonian authorities on this point.**

60. The confidentiality of medical consultations was generally respected in all the prisons. However, medication was prepared by the nurses and distributed by custodial staff, except for the psychotropic drugs which were delivered by the nurses. Such a practice could compromise medical confidentiality requirements and does not contribute to the proper establishment of a doctor-patient relationship. **Therefore, medication should only be distributed by health-care staff.**

61. The health-care facilities and the supply of medication were very good.

62. Tartu Prison is the only prison in the country with a psychiatric unit. The unit has a total capacity of 18 beds and comprises twelve well-equipped single/double rooms (with sanitary annexes). At the time of the visit, the unit was accommodating five patients who were forensic patients undergoing psychiatric assessment or prisoners who had developed a mental illness during imprisonment. Patients usually stayed in the unit for a period of one to four weeks.

63. It is a matter of concern that, at the time of the visit, all the patients were locked up alone in their rooms all day, apart from one hour of daily outdoor exercise which patients could take alone in a small outdoor cubicle. Thus, patients were de facto held in solitary confinement. There was no common room in the unit, and patients were not offered any recreational or therapeutic activities.

Whilst acknowledging the efforts made by health-care staff to engage with patients on a daily basis, the CPT wishes to stress that, even for relatively short stays, **patients should benefit from a range of recreational and therapeutic out-of-cell activities, in addition to pharmacological treatment, and they should, as far as possible, be allowed to associate with other patients (if necessary under supervision).**

In their letter of 26 February 2018, the Estonian authorities informed the CPT that an “activity manager” had been recruited in October 2017 at Tartu Prison. He was engaging with up to 100 patients with mild intellectual disabilities. The group and individual counselling activities offered by him/her were aimed at fostering the patients’ emotional stability and addressing behavioural disorders. In addition, a gardening pilot project for psychiatric patients was planned to start in 2018.

Whilst acknowledging this development, the CPT recommends that the existing arrangements in the psychiatric unit be further reviewed, in the light of the above remarks. In particular, steps should be taken to put an end to the solitary confinement regime of the patients concerned.

5. Other issues

a. contact with the outside world

64. According to the relevant rules,⁴⁴ all sentenced and remand prisoners – including juveniles – were entitled to receive one short-term visit per month of up to three hours,⁴⁵ and sentenced prisoners were also entitled to receive one unsupervised long-term visit of 24 hours (with a possible extension of up to three days in “justified cases”) at least once every six months.

Moreover, in addition to the right to correspondence, all prisoners were allowed to have access to the telephone, sentenced prisoners at least once a week and remand prisoners “upon request”.

The information gathered during the visit suggests that, in all three prisons, prisoners were usually allowed to have a visit of three hours per month and that on occasion prisoners could have more than one visit per month. Further, sentenced prisoners were usually offered two long-term visits per year, and all prisoners were usually allowed to make one ten-minute telephone call per week.

That said, the CPT wishes to stress again that all prisoners, irrespective of their legal status, should be entitled to the equivalent of one hour of visiting time per week and, preferably, should be able to receive a visit every week. Further, juveniles should benefit from a visiting entitlement of more than one hour every week and should have more frequent access to the telephone than adults.

65. The CPT is concerned by the fact that, despite the specific recommendation made in the report on the 2012 visit, short-term visits – including those for juvenile prisoners – were still taking place, as a general rule, under closed conditions (i.e. with a glass partition). This was not the case for women who were accommodated in the Mother and Child Unit at Tartu Prison, and further exceptions were made in all prisons on a case-by-case basis.

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

66. Some prisoners whose spouse was imprisoned in another prison complained that they were no longer allowed by the prison administration to visit their spouse, while such visits had been authorised in the past. **The CPT would like to receive the Estonian authorities’ comments on this matter.**

⁴⁴ Sections 23 to 29, 84 and 94 to 97 of the Imprisonment Act as well as Sections 37 and 51 of the Internal Prison Rules.

⁴⁵ As regards juveniles (and young adults), the law stipulates that the frequency and duration of visits and prison leave “may be increased with a view to achieving the objectives of the execution of imprisonment”.

b. solitary confinement as a disciplinary sanction

67. In the course of the visit, the delegation paid particular attention to the situation of prisoners who were subjected to solitary confinement as a punishment.

At the outset, the CPT must express its serious concern that hardly any of the specific recommendations made after the 2012 visit regarding this issue have been implemented.⁴⁶

Firstly, the maximum legal time-limits for disciplinary solitary confinement remain unchanged,⁴⁷ namely 45 days for adult sentenced prisoners, 30 days for adult remand prisoners, 20 days for sentenced young offenders (juveniles and young adults) and 15 days for young remand prisoners (juveniles and young adults).

It is of all the more concern that, in particular at Viru Prison, multiple disciplinary sanctions of solitary confinement were still being imposed consecutively, which in a number of cases resulted in very long periods of solitary confinement. For instance, at Tartu Prison, one prisoner had been placed in a disciplinary cell from 12 August to 14 October 2016 (64 days), serving ten consecutive sanctions. At Viru Prison, one prisoner had been subjected to disciplinary confinement for almost eight months in 2017 (serving without interruption 34 sanctions of varying durations), another prisoner was continuously held in a punishment cell for a total of 225 days (serving five sanctions of 45 days), and one juvenile prisoner (aged 16) for a total of 36 days (serving, without interruption, 20 disciplinary sanctions). Such a state of affairs is unacceptable.

More generally, resort to solitary confinement as a punishment appeared to be widespread in all three prisons and, at Viru Prison in particular, this practice appeared to be excessive. Out of a total of 1,278 sanctions which had been imposed on prisoners at Viru in the first nine months of 2017, 950 (i.e. almost 75%) were cases of solitary confinement (with the maximum penalty of 45 days being imposed 46 times).

68. Given the seriousness of the situation observed, the delegation once again made an immediate observation during the end-of-visit talks with the Estonian authorities and requested that the current practices regarding the use of disciplinary confinement be reviewed as a matter of priority at Viru Prison (see also paragraph 7).⁴⁸

By letter of 26 February 2018, the Estonian authorities provided the following information:

“The regulation of the disciplinary punishment of the prisoner (...) is being reviewed at the moment by the Ministry of Justice in its entirety. (...) During the preparation of the regulation facilitating disciplinary proceedings about the prisoner, the issue about the length of being in the punishment cell is also reviewed. As far as the complex issue is concerned, i.e. changes to the Imprisonment Act concern the whole regulation, these issues are resolved in a single draft”.

⁴⁶ See CPT/Inf (2014) 1, paragraphs 6, 75, 76, 95.

⁴⁷ Sections 63 and 100 of the Imprisonment Act.

⁴⁸ An immediate observation regarding the same issue had already been made at the end of the 2012 visit.

69. The CPT must stress once again that any form of isolation may have a detrimental effect on the physical and/or mental well-being of prisoners, especially when it is imposed for prolonged periods of time. It is generally recognised that juveniles are particularly vulnerable in this regard.

As regards juveniles, the CPT wishes to point out that the United Nations Standard Minimum Rules on the Treatment of Prisoners (*Nelson Mandela Rules*), which were revised in December 2015 by a unanimous resolution of the General Assembly, stipulate in Rule 45 (2) that solitary confinement shall not be imposed on juveniles.⁴⁹ The CPT fully endorses this approach.

70. In the light of the above, **the CPT recommends that the Estonian authorities take immediate steps, including at the legislative level, to ensure that:**

- **the maximum period of solitary confinement as a punishment for a given offence committed by an adult prisoner does not exceed 14 days and is preferably shorter;**
- **solitary confinement as a punishment is no longer imposed on juvenile prisoners;**
- **no adult prisoner is held continuously in disciplinary isolation for longer than the maximum time-limit. If a prisoner has been sanctioned to disciplinary confinement in relation to two or more offences for a total period exceeding the maximum time-limit, there should be an interruption of several days in the disciplinary confinement once the aforementioned time-limit has been reached. Any offence(s) committed by a prisoner which it is felt call(s) for a more severe sanction should be dealt with through the criminal justice system.**

Further, **the Committee recommends that the current practices be reviewed in all prisons in order to ensure that solitary confinement is only resorted to in exceptional circumstances for the most serious violations.**

71. Material conditions in disciplinary cells were generally adequate at Tartu and Viru Prisons.

At Tallinn Prison, the delegation observed some basic refurbishment in Disciplinary Block K1 and window shutters had been removed. However, material conditions in the cells of Block K1 still remained in a poor state of repair and were poorly ventilated and dirty.

Pending the closure of the establishment, **the CPT recommends that the Estonian authorities take the necessary steps to ensure that the disciplinary cells at Tallinn Prison are kept in acceptable hygienic conditions.**

72. During placement in a punishment cell, all prisoners were offered one hour of outdoor exercise per day. Further, the relevant rules⁵⁰ stipulate that such prisoners are entitled to have educational books and legal documents in their cell and, according to the information provided in their response to the report on the 2012 visit,⁵¹ they may as a rule also have access to newspapers.

⁴⁹ See Rule 45 (2) of the *Nelson Mandela Rules* and Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (*Havana Rules*).

⁵⁰ Section 60 of the Internal Prison Rules.

⁵¹ CPT/Inf (2014) 2, page 36.

Notwithstanding that, in all prisons, prisoners placed in a punishment cell usually had access only to religious books and legal documents. **The CPT reiterates its recommendation that all prisoners subjected to disciplinary confinement be allowed access to a broader range of reading material, from the outset of their placement in a punishment cell.**

73. Further, whilst acknowledging the fact that, at Tallinn Prison, prisoners placed in a punishment cell were offered longer weekly telephone calls, the CPT has misgivings about the fact that, according to the relevant rules,⁵² prisoners in punishment cells were not allowed to receive any visits.

In the CPT's view, any restrictions regarding the right to receive visits should only be applied if the disciplinary offence relates to the exercise of that right. **The CPT recommends that the relevant legislation be amended accordingly.**

74. From the consultation of disciplinary files and interviews with prisoners and staff, it transpired that disciplinary procedures were usually carried out in accordance with the relevant rules.⁵³

However, as had been the case during previous visits,⁵⁴ the prisoners concerned were usually heard only by the contact officer, including when decisions were taken at a higher level. **The CPT recommends that before the decision is taken, the prisoner be heard by the decision-taker. Further, the most severe of sanctions (including solitary confinement) should be taken at the level of the prison management (i.e. the prison director or a deputy prison director).**

75. As regards the role of health-care staff in the context of disciplinary solitary confinement, a "fit for punishment" certificate issued by medical staff was generally a prerequisite to placement in a punishment cell. Further, it is a matter of concern that the condition of the prisoners concerned was checked by a member of the health-care staff routinely only after one month, unless a medical check had been requested by the prisoner concerned or the contact officer.

By letter of 26 February 2018, the Estonian authorities confirmed this observed practice, indicating that: "The medical department will evaluate (...) whether the person is able to carry a punishment cell penalty or not. If a punishment cell is medically contraindicated, it is possible to terminate the execution of a punishment cell penalty on the basis of a medical prescription".

⁵² Section 24 (2) of the Imprisonment Act.

⁵³ Sections 64 and 101 of the Imprisonment Act and Sections 97 to 99 of the Internal Prison Rules.

⁵⁴ See CPT/Inf (2014) 1, paragraph 98.

76. The CPT does not contest as such the involvement of doctors in the context of the disciplinary solitary confinement of prisoners, quite the contrary. However, the Committee wishes to stress once again that medical practitioners in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Against this background, the practice of prison doctors certifying that a prisoner is fit to undergo punishment is scarcely likely to promote that relationship. As a matter of principle, medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons. On the other hand, health-care staff should be very attentive to the situation of prisoners placed in disciplinary cells. The health-care staff should immediately be informed of all such placements and should visit the prisoner without delay after placement and thereafter on a daily basis, and provide him/her with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary confinement.

The CPT recommends that the Estonian authorities review the role of health-care staff in relation to disciplinary matters, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).

c. security-related issues

77. According to Section 69 of the Imprisonment Act, prisoners who regularly violate the internal rules of the prison or who constitute a risk to harming themselves or others or who pose a risk of escape may be segregated from other prisoners and subjected to cellular confinement (*lukustatud*) as a security measure, for an indeterminate period of time.

At the time of the visit, 17 prisoners were being segregated from other prisoners at Tallinn Prison, 23 at Tartu Prison and 55 at Viru Prison.

While some of the prisoners concerned were accommodated within their regular accommodation block, a number of them were placed in cells within the establishment's disciplinary block (32 out of 55 in Viru Prison), and in some cases, in special observation cells (see paragraph 80). Some were sharing their cell in pairs, but the majority were being held in single cells.

The regime applied to segregated prisoners was very restrictive. Apart from one hour of outdoor exercise, taken cell by cell in an outdoor cubicle, the prisoners concerned remained locked up in their cells, their only occupations being watching television and reading. Some prisoners were also provided with study materials. For prisoners who were accommodated in single cells, the regime was tantamount to solitary confinement, often for prolonged periods.

Most of the segregated prisoners interviewed by the delegation perceived their regime as a punishment, as they were accommodated in the disciplinary block and subjected to almost the same regime as those who were subjected to a disciplinary sanction of solitary confinement.⁵⁵

⁵⁵ Another difference from the regime in punishment cells was that segregated prisoners could receive visits and purchase items from the prison shop. Bedding materials also remained in the cell throughout the day.

78. The CPT acknowledges that every prison system needs to have a mechanism for administrative segregation, in order to cope with prisoners who persistently refuse to comply with the rules or pose a major security risk. That said, there must be a clear distinction, not only in law but also in practice, between administrative segregation and segregation/isolation on disciplinary grounds. In particular, the conditions of administrative segregation must be less strict and, save for the most exceptional of circumstances, should not amount to solitary confinement. Special efforts should be made to develop positive relations between staff and prisoners. Throughout the period of administrative segregation, the objective should be to persuade the prisoner to re-engage with the normal regime. Accordingly, it is essential that there is a plan for all such prisoners and that all staff involved with them work to that plan to maximise its effect.

The CPT recommends that the Estonian authorities take the necessary measures to ensure that the handling of prisoners subjected to segregation is reviewed in all prisons, in the light of the above remarks. More specifically, steps should be taken to ensure that:

- **all segregated prisoners benefit from a structured programme of purposeful and preferably out-of-cell activities;**
- **all prisoners subjected to solitary confinement are provided – on a daily basis – with meaningful human contact.⁵⁶ The aim should be that the prisoners concerned benefit from such contact for more than two hours per day.**
- **all prisoners subjected to solitary confinement are visited by a member of health-care staff on a daily basis and are provided with adequate psycho-social support.**

79. The delegation received conflicting information in the establishments visited regarding the procedures for the imposition of security measures under Section 69 of the Imprisonment Act, as well as for the review of such measures.

The CPT would like to receive more detailed information on this matter, including the level of the decision-making, the possibility for the prisoner to appeal the decision, and the nature and frequency of the review procedure.

80. All prisons had special security cells (“observation cells”)⁵⁷ for accommodating prisoners who were perceived to present a risk of self-harm/suicide. These cells were bare and had reinforced security arrangements, most often a glass entrance door, metal grilles at the door and windows and constant CCTV monitoring.

Due to the lack of a specific register, the delegation was unfortunately not in a position to obtain a clear picture of the frequency and duration of placements of prisoners in these cells.

The CPT recommends that a special register be kept in all prisons of every placement in a security cell, recording the name of the prisoner concerned, the reasons for the measure, the date and time of the beginning and end of the measure, the deciding authority, the precise location of the placement and the time of checks by health-care staff.

⁵⁶ See, in this regard, pages 88 and 89 of the Essex paper 3 on the “Initial guidance on the interpretation and implementation of the Nelson Mandela Rules” (Penal Reform International/Human Rights Centre, Essex University, February 2017).

⁵⁷ Notably cell no. 1166 at Tartu Prison, cell no. P216 at Viru Prison, and the “jälgimiskamber” at Tallinn Prison.

81. As indicated in paragraph 41, at Viru Prison, at the time of the visit, 46 prisoners were segregated from the general prison population and held in the establishment's high-security unit (so-called "Supermax"). The regular regime within this section was more diversified than that of prisoners placed in cellular confinement (described above), as it allowed prisoners to interact with each other for several hours per day, including in group activities.

82. The delegation was informed that the decision to place a prisoner in this unit was usually taken after the initial risk assessment carried out upon admission by the prisoner's contact officer. Placement decisions were issued in writing and were then reviewed at least once a year. In principle, they were subject to appeal before the administrative court. However, as the contents of the risk assessment were often kept confidential, it appeared to be difficult in practice for the prisoners concerned to challenge the decision. Further, a few allegations were received that prisoners were not always heard prior to the decision on the extension of the placement.

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

- **prisoners placed in the high-security unit or in respect of whom such placement is extended are given an opportunity to express their views on the matter and are informed in writing of the reasons therefor (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);**
- **the placement of a prisoner in the high-security unit is reviewed at least once every three months;**

83. Further, it is regrettable that, despite the specific recommendation made in the report on the 2012 visit⁵⁸, prison officers continued openly to carry telescopic truncheons, tear gas canisters and handcuffs in the detention areas of all three prisons. In the CPT's view, prison officers should not carry such equipment as a matter of routine in detention areas and, if it is deemed necessary for staff to be armed with such devices, they should be hidden from view. **The CPT reiterates its recommendation that the Estonian authorities take the necessary steps to ensure that the current practices in all prisons are reviewed accordingly.**

84. Whenever strip searches were conducted in the prisons visited, the prisoners concerned were obliged to fully undress.

The CPT considers that a strip search is a very invasive and potentially degrading measure. When carrying out such a search, every reasonable effort should be made to minimise embarrassment; prisoners who are searched should not normally be required to remove all their clothes at the same time, e.g. the prisoners should be allowed to remove clothing above the waist and to get dressed before removing further clothing.

The CPT recommends that the Estonian authorities ensure that this precept is respected in practice whenever it is deemed necessary, on the basis of an individual risk assessment, to resort to a strip search of a prisoner.

⁵⁸ See CPT/Inf (2014) 1, paragraph 92.

d. legal remedies and complaints procedures

85. It is noteworthy that prisoners had the possibility to challenge administrative decisions taken by the management of the prison before the Administrative Court. Inmates were usually adequately informed of this option.⁵⁹

86. In all prisons, newly-arrived prisoners were usually informed of the possibility to lodge an internal complaint with the Director. That said, a number of prisoners interviewed by the delegation stated that they had no confidence in this procedure as complaints to the Director had to be lodged in open letters.

The CPT recommends that the Estonian authorities take the necessary steps to ensure that prisoners are able to lodge complaints to the management in a confidential manner (e.g. by installing locked complaints boxes accessible to prisoners in appropriate locations, to be opened only by specially designated persons).

87. Further, prisoners could in principle lodge complaints with external bodies, in particular to the relevant Prison Committee⁶⁰ and the Chancellor of Justice (Ombudsman).

That said, a number of prisoners interviewed by the delegation appeared to be unaware of the existence of such complaints procedures. **The CPT reiterates its recommendation that measures be taken in all prisons to provide prisoners with the necessary information, in a language they understand, on all existing external complaints mechanisms.**

⁵⁹ According to the Director of Tartu Prison, approximately 150 complaints were addressed annually to the administrative court.

⁶⁰ For further details, see paragraph 101 of the report on the 2012 visit (CPT/Inf (2014) 1).

C. Valgejõe Training Centre of Maarjamaa Education Institute

1. Preliminary remarks

88. For the first time in Estonia, the CPT visited a juvenile correctional institution. Valgejõe Training Centre, located in the town of Tapa (90 km east of Tallinn), is one of two existing correctional establishments for juvenile offenders.⁶¹

89. At the time of the visit, juveniles (“pupils”) could be detained at the Centre exclusively on the basis of a court ruling, on the following legal grounds:

- (1) according to the Criminal Code,⁶² a juvenile aged 14 to 18 years⁶³ who had committed a criminal act could be sent to the Centre for up to three years.
- (2) according to the Juvenile Sanctions Act,⁶⁴ a juvenile aged 12 to 18 who had committed a criminal act or misdemeanour⁶⁵ could be placed in the Centre upon application of a juvenile committee⁶⁶ if sanctions applied previously had not yielded results and the placement was considered necessary to ensure disciplinary supervision. In exceptional cases, this could also be applied to a juvenile aged ten or eleven who had committed an unlawful act corresponding to a criminal offence. Such placements could last up to two years.
- (3) according to the Social Welfare Act,⁶⁷ a juvenile with a mental disorder could be placed at the Centre as a measure of last resort if he/she was considered to be in need of “24-hour special care service” in a social welfare institution in order to prevent him/her from endangering him/herself or others. The law does not provide for an age limit for such placements. However, in practice, the Centre appeared not to accommodate children below the age of ten.

The legal grounds for placement mentioned in (2) and (3) were abolished on 1 January 2018 with the entry into force of amendments to the Social Welfare Act⁶⁸ and the abrogation of the entire Juvenile Sanctions Act. As a result, apart from placement under the Criminal Code, the placement of juveniles in a juvenile correctional institution is now subject to a new comprehensive civil procedure set out in the amended Social Welfare Act.

⁶¹ The other establishment, Emajõe Training Centre, is located in Kaagvere (near Tartu). Both form part of Maarjamaa Education Institute.

⁶² Section 87.

⁶³ The minimum age of criminal responsibility is fixed at 14 years.

⁶⁴ Sections 6 (2) and (3) and 1 (2).

⁶⁵ Or “an unlawful act corresponding to a criminal act or misdemeanour” in the case of juveniles aged 12 or 13 who were below the age of criminal responsibility.

⁶⁶ Juvenile committees were decision-making bodies (usually at county level) in charge of juvenile offence matters (Chapter 3 of the Juvenile Sanctions Act). They have in the meantime been abolished through the revocation of the Juvenile Sanctions Act (see following sub-paragraph).

⁶⁷ Section 105.

⁶⁸ Sections 130¹ to 130⁵.

At the outset of the visit, the delegation was informed that this legal reform was part of a major paradigm shift in the country's approach towards juvenile justice issues. Instead of the previous punitive approach, the overall aim was now to prevent re-offending by providing juvenile offenders with the necessary support to foster their psychological, emotional, educational and cognitive development as well as their social skills. The CPT welcomes these initiatives.

According to the amended Social Welfare Act,⁶⁹ closed child-care institutions shall establish internal rules which specify *inter alia* the modalities for juveniles' contact with the outside world, and the preparation and updating of individual activity plans, as well as complaints procedures. **The CPT would like to receive a copy of the internal rules of Maarjamaa Education Institute.**

90. Valgejõe Training Centre was opened in 2014 on the premises of the previous juvenile penitentiary establishment "Tapa Reform School". It comprised a total of nine living units, five for boys, two for girls, one "special care unit" for boys and girls placed in the centre under the Social Welfare Act and one living unit which was not in use. With an official capacity of 60 places, the centre was accommodating 47 juveniles at the time of the visit (35 boys and 12 girls).⁷⁰ Of these, 41 had been placed in the Centre on the basis of the Juvenile Sanctions Act, three on the basis of the Criminal Code and another three on the basis of the Social Welfare Act. Most juveniles were between 14 and 16 years old, the youngest were two boys of 12 years of age and the oldest two juveniles of 17 years. The great majority of them stayed at the Centre for one or two years, usually until the end of a school year.

2. Ill-treatment

91. The delegation received no allegations and found no other evidence of ill-treatment by staff. On the contrary, all juveniles interviewed by the delegation spoke positively about staff, and the delegation observed for itself the staff's very caring and dedicated attitude vis-à-vis juveniles.

92. Violence amongst juveniles did not appear to be a major problem. The delegation gained the impression that, when such incidents occasionally occurred, staff usually intervened promptly by applying de-escalation techniques.

⁶⁹ Section 130³ (6).

⁷⁰ Three of the 47 juveniles had absconded.

3. Living conditions and pedagogical approach

93. Material conditions in the centre were of a very good standard. Every juvenile had his/her own room which was of sufficient size (about 10 m² or more), adequately furnished, and had good access to natural light and ventilation. All rooms also had a separate sanitary annexe (toilet, washbasin, shower). The living units also had open-plan common kitchens, a dining table and homely living areas with sofas and a television set. In addition, the building comprised schoolrooms, workshops, a spacious modern sports hall and a canteen and had an adjacent large and well-equipped sports ground and lawn.

94. The regime offered to juveniles consisted of a wide range of educational and recreational activities in which boys and girls participated together. In the mornings and early afternoons, juveniles either attended primary or lower secondary school lessons⁷¹ in small groups or individually.⁷² Seven juveniles attended vocational training courses outside the institution in Rakvere.⁷³ In the afternoons, the juveniles could participate in a number of hobby-groups (woodwork, weaving, art/pottery) in well-equipped workshops/hobby rooms and play team sports/games in the sports hall. Additionally, they could lend books (including in Russian⁷⁴), magazines and board games, play table-football, make phone calls and use computers, including for writing e-mails.⁷⁵ Several times a month, sports competitions were organised. In their living units, juveniles could move freely and could take part in group activities (including regular excursions such as cinema, mushroom picking, participating in or watching a local football match). Activities were selected by staff together with the juveniles.

However, it is a matter of concern that on weekdays, access to the outdoor yard was often offered for only about 45 to 50 minutes.⁷⁶ By letter of 26 February 2018, the Estonian authorities provided the following information: “We have started extending the outdoor time in both centres and further solutions are being sought. We can guarantee up to 2 hours of outdoor time in a day on at least 2-3 days a week and even more in cases of groups who need less supervision.” This is a welcome initiative. In the light of this response, **the Committee urges the Estonian authorities to take the necessary measures to ensure that all juveniles are offered access to the outdoor yard for at least two hours every day, and preferably more.**

95. The Centre’s pedagogical approach reflected the above-mentioned paradigm shift as regards juvenile offenders.⁷⁷ The overall objective was to support rather than to punish the juveniles. Each of the juveniles had a personal contact person (“mentor”) who was a social pedagogue and lived with them in their respective living units (during his/her duty shifts). The staff’s attitude was aimed at promoting the juveniles’ sense of community and responsibility and to enhance their social skills. Efforts were made to build mutual trust, e.g. by gradually allowing juveniles to leave the Centre (initially accompanied, later also unaccompanied), to visit for instance the local library or to attend a sports club. In addition, almost all juveniles were frequently granted home leave.⁷⁸

⁷¹ The curriculum was the same as in other public schools. The certificates delivered upon completion of a school year or a vocational course did not indicate that they were obtained while the juvenile was held in a correctional facility.

⁷² The groups comprised up to eight juveniles. At the time of the visit, six juveniles received individual tuition.

⁷³ Car repair, bakery, construction works, cleaning services.

⁷⁴ Apparently, at least one-third of the juveniles were native Russian speakers.

⁷⁵ Internet access was partly restricted. For instance, juveniles had no access to social networks.

⁷⁶ On weekends, juveniles could usually go to the yard twice a day for a total of about two hours.

⁷⁷ See paragraph 89.

⁷⁸ See paragraph 104.

In their living units, the juveniles and their mentors regularly discussed and amended their internal community rules and the juveniles were actively involved in the planning of their group activities. In addition, every year the juveniles elected a pupil's representative council which could make suggestions for improvements or events and communicate complaints of juveniles.⁷⁹

In the CPT's view, the Centre's pedagogical approach towards the juveniles is exemplary and could serve as a model for similar establishments.

96. In the event of conflict between the juveniles, staff members intervened promptly, usually applying only verbal de-escalation techniques. In each living unit, the juveniles and their mentors had agreed on light penalties for misbehaviour. Other educational measures in cases of misconduct were exclusion from benefits such as additional access to the sports hall, a group excursion or in more serious cases refusal of home leave (usually in cases of inter-juvenile violence for the duration of the police investigation).

97. Further, individual development plans describing their needs were prepared for each juvenile upon their arrival at the Centre. However, the centre's management told the delegation that these plans had unfortunately neither been implemented nor had they been reviewed recently, due to the lack of the necessary therapeutic staff, including a psychologist and a speech therapist (see also paragraph 102).⁸⁰ The CPT concurs with the Centre's management that the absence of a psychologist at the Centre is particularly worrying, given that many of the juveniles were clearly in need of psychological care.⁸¹

By letter of 26 February 2018, the Estonian authorities provided the following information: "For ensuring psychological help, we have [...] acquired a psychologist service to Valgejõe centre from Tapa hospital until filling the position on site". This is a welcome development.

The CPT trusts that the authorities will redouble their efforts to fill all the above-mentioned vacancies as a matter of priority in order to ensure appropriate psychological and therapeutic care for the juveniles and the regular revision of their individual development plans. In this context, the Committee would also like to emphasise that the active involvement of the juveniles in the initial drafting, as well as in the review of their individual development plans, can be very beneficial in fostering their motivation and sense of responsibility for meeting the objectives set by those plans.

⁷⁹ Complaints could also be made by requesting to meet the Centre's manager or via a complaint box in the canteen (which had however never been used).

⁸⁰ According to the law, the development plans could only be reviewed by a multi-disciplinary team of five professionals comprising a psychologist, a speech therapist, a specialised school nurse, an occupational therapist and a social worker. An evaluation of the juveniles' behavioural progress took place during a twice-yearly round-table conference organised for each juvenile.

⁸¹ See footnote 78.

4. Health care

98. A nurse was present at the centre on workdays from 8 a.m. until 5 p.m.,⁸² and the delegation was impressed by her professional and proactive attitude. However, it is a matter of concern that no appropriate replacement for the nurse was provided during her holidays and in the event of sick leave.⁸³ **Steps should be taken to address this shortcoming.**

99. Upon arrival, all juveniles were examined by the nurse as soon as possible, usually on the day of admission. The nurse further visited the juveniles in their living units every day and had become a person of trust for many of them. Twice per year, she examined all the juveniles, who were in addition examined by a family doctor in Tapa once per year. Whenever necessary, additional medical consultations with doctors outside the Centre (including psychiatrists) were arranged.⁸⁴

100. That said, the Committee is concerned that the treatment of juveniles with a psychiatric diagnosis was mainly based on psychotropic drugs.⁸⁵ This might (partly) be due to the above-mentioned lack of a psychologist and other therapeutic staff. Nevertheless, the Committee wishes to emphasise that such treatment does not reflect the contemporary paradigm of mental disorders in child and adolescent psychiatry, where non-pharmacological treatment should be the main means of treatment.

The CPT trusts that the Estonian authorities will take the necessary steps to ensure that juveniles with a psychiatric disorder are offered non-pharmacological therapeutic treatment specific to their needs (e.g. psychotherapy). Reference is also made to the recommendations in paragraphs 101 and 102.

101. Moreover, the CPT is concerned that, according to the Centre's management, juveniles in need of placement in a psychiatric hospital occasionally had to remain at the Centre due to the countrywide shortage of places in psychiatric hospitals.

The CPT urges the Estonian authorities to redouble their efforts to ensure that juveniles in need of placement in a psychiatric hospital are transferred without delay to an appropriate facility.

⁸² Formally, the nurse was an employee of a local hospital.

⁸³ When the nurse was absent, emergency medical assistance was provided either by arranging a consultation with a local doctor outside the Centre or by calling an ambulance.

⁸⁴ For these consultations, the juveniles were usually accompanied by staff to doctors in their home towns. For instance, in March 2017, 40 such outside consultations had taken place (including twelve with child psychiatrists).

⁸⁵ At the time of the visit, 18 juveniles had been prescribed psychopharmacological treatment, nine of which were antipsychotics.

5. Other issues

102. The Centre's management itself considered staff vacancies to be the most acute problem. Apart from the above-mentioned vacant posts of a psychologist and a speech therapist, other key personnel in charge of working with the juveniles towards rehabilitation and reintegration were also lacking. At the time of the visit, a total of 30 posts were vacant.⁸⁶ The Centre's continued efforts to recruit sufficiently qualified staff were hampered mainly by the countrywide shortage of the professionals needed. In addition, the Centre was undergoing a period of turmoil following the resignation of a considerable number of staff and the recent dismissal of the Director.

The Committee recommends that the authorities redouble their efforts to fill the staff vacancies as a matter of priority.

103. As regards security, violent and/or agitated juveniles could exceptionally be placed as a measure of last resort in a "calming down room" for up to 24 hours in order to prevent immediate danger of bodily harm (to themselves or others). The CPT welcomes the fact that, in practice, the room was used rarely⁸⁷ and for much shorter periods of time (usually less than two hours). It is also noteworthy that, following an amendment to the Social Welfare Act, such placements can now last for no more than three hours.⁸⁸ From the examination of relevant records and interviews with staff and juveniles, it transpired that the calming down room was only used until the juvenile's state of agitation had passed and never as a punishment.

The nurse (and, occasionally, a doctor) was called whenever a juvenile was placed in the calming down room. In accordance with the relevant legislation,⁸⁹ the juvenile's parents (or legal representative) were immediately informed of such placement. The juvenile was supervised via a CCTV camera throughout his/her stay in the cell (which was equipped with a call bell), and an educator usually visited him/her on a regular basis. Given the particular vulnerability of juveniles and the fact that a significant number of them had been diagnosed with mental disorders, it is positive that the amended Social Welfare Act now provides that during such placements, the juvenile must be "continuously supported and supervised".⁹⁰

⁸⁶ Out of a total of 126 posts assigned. At the Emajõe Educational Centre which is similar in size, 22 posts were reportedly vacant at the time of the visit.

⁸⁷ According to the centre's register, the room had been used 18 times in 2016 and four times during the first nine months of 2017.

⁸⁸ Section 130³ (4).

⁸⁹ Section 6² (4) of the Juvenile Sanctions Act, which has now been replaced by the new Sections 130³ (5) and 107 (7) of the Social Welfare Act.

⁹⁰ See Section 130³ (4) of the Social Welfare Act. The internal rules which are to be established by the child-care institution according to Section 130³ (6) of the law will also provide a procedure for isolation of a juvenile, his/her supervision and support during isolation and the requirement for his/her parents to be notified of the measure.

The law further stipulated that a psychologist, the director or a person authorised by the director should converse with the juvenile after the episode about the reasons for the placement in the calming down room. However, in the forms used for documenting the placements, the relevant section for notes on a debriefing was often left blank or only filled in very cursorily.⁹¹ **The CPT would like to receive confirmation that a proper debriefing with the juvenile always takes place following every such placement and is documented accordingly.** Such debriefing will provide an opportunity for the staff involved to explain the need for the measure and thus help to relieve uncertainty about its rationale.

104. Finally, the CPT welcomes the Centre's efforts to facilitate juveniles' contact with the outside world. The juveniles could make free phone calls from their rooms three times a week, usually for 20 minutes (and often longer). They could further receive frequent visits during the daytime (outside school lessons)⁹² and could send and receive emails at least twice a week. Moreover, almost all of the juveniles were regularly granted home leave⁹³ on weekends⁹⁴ and for (part or the whole of) the school holidays. This practice is particularly praiseworthy, since it facilitates juveniles' reintegration into society.

⁹¹ In a number of cases, the form only contained the statement: "Person calmed down and is back to his room".

⁹² Times, length and frequency of these visits were generally not limited.

⁹³ Home leave was granted upon individual assessment and under the condition that the families/parents presented a plan indicating the leisure time activities they would carry out with the juvenile during the home leave. When home leave was granted, the youth welfare authority of the juvenile's home municipality was informed.

⁹⁴ Some juveniles spent almost every other weekend at home.

APPENDIX I

List of the establishments visited by the CPT's delegation

Establishments under the authority of the Ministry of the Interior

- Haapsalu Detention House
- Pärnu Detention House
- Tallinn Detention House
- Tartu Detention House
- Valga Detention House
- Tallinn City Centre Police Station
- Tallinn East Police Station

Establishments under the authority of the Ministry of Justice

- Tallinn Prison
- Tartu Prison
- Viru Prison

Establishments under the authority of the Ministry of Education and Research

- Maarjamaa Education Institute, Valgejõe Training Centre (Tapa)

APPENDIX II

List of the national authorities and other bodies met by the CPT's delegation

A. National authorities

Ministry of the Interior

Raivo Küüt	Deputy Secretary General for Public Order and Migration Policy
Kristo Lensment	Head of Harku Immigration Detention Centre, Police and Border Guard Board
Paul Pihelgas	Senior Law Enforcement Officer, Police and Border Guard Board

Ministry of Justice

Urmas Reinsalu	Minister of Justice
Priit Kama	Deputy Secretary General, Prisons Department
Tanel Kalmet	Director of Penal Law and Procedure Division, Criminal Policy Department
Priit Post	Director of Sentencing Enforcement Division, Prisons Department
Maret Miljan	Director of Rehabilitation Division, Prisons Department
Tanel Kalmet	Director of Penal Law and Procedure Division, Criminal Policy Department
Viorica Tšaikovski	Advisor, Prisons Department
Laura Glaase	Advisor, Prisons Department, CPT's liaison officer
Annela Toom	Advisor, Prisons Department

Ministry of Education and Research

Kalle Küttis	Head of School Net
Jürgen Rakaselg	Advisor, School Net Department

Ministry of Foreign Affairs

Maris Kuurberg Government agent before the European Court of Human Rights

Katri Lõhmus Government agent before the European Court of Human Rights

Ministry of Social Affairs

Ingrid Ots-Vaik Advisor, Health System Development Department

Elise Nikonov Advisor, Department of Children and Families

B. Other bodies

Office of the Chancellor of Justice

Raivo Sults Senior Advisor