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**Responses of the Estonian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Estonia**

from 13 to 23 July 1997

The Estonian Government has agreed to the publication of the CPT's report on its visit to Estonia in July 1997 (see CPT/Inf (2002) 26) and of its responses. The responses are set out in this document.

Strasbourg, 30 October 2002

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INTERIM REPORT BY THE ESTONIAN GOVERNMENT
IN RESPONSE TO THE REPORT OF THE EUROPEAN
COMMITTEE FOR THE PREVENTION OF TORTURE AND
INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT (CPT) ON ITS VISIT TO ESTONIA
FROM 13 TO 23 JULY 1997.

(received on 15 June 1998)

INTRODUCTION

1. The Government of Estonia wishes, first of all, to state that it fully realises that the structures, facilities and practice in the fields covered by the mandate of the CPT need substantial improvement to achieve full conformity with the norms and standards which should prevail in a democratic society. It therefore welcomes any advice, proposal and assistance given by the Council of Europe and by its Member States to promote reform and to introduce the necessary modifications as soon as possible.

2. As the Government expected, the Report is critical. While these criticisms are not refuted as such, it might, however, bring the situation reflected in the Report into a more truthful perspective by recalling certain basic historical facts.

3. In 1918 Estonia fought for and obtained the status as an independent State. It implied that new structures had to be developed, also as regards the setting up and the functioning of prisons.

The main normative act for the implementation of the sanctions involving deprivation of liberty was the Confinement Code (accepted in 1931), on the basis of which the Home Secretary issued an executive order in 1935.

The institutions provided for were : penal servitude houses, prisons and arrest houses. They were administered by the Courts and Home Secretary through the director of the Prison Bureau. These institutions were geographically decentralised and in 1934 there were 13 of them : Tallinn Central Prison, Tallinn Prison, Harku, Tartu, Pärnu, Narva, Viljandi, Rakvere, Võru, Valga, Haapsalu, Paide and Kuressaare Prisons and also a Harku juvenile colony.

In 1939 the average number of inmates was 3016 of whom 2412 (80%) were labour conscript. They were working in workshops and doing external work such as building and remedial work, land improvements, forestry, stone and turf work and in agriculture.

The conditions under which prisoners were detained, were in full conformity with the recommendations of the IPPF (International Penal and Penitentiary Foundation).

4. When in 1940 the Estonian Republic was occupied by the Soviet Union, the Estonian prison system was taken over by the occupants. Prisons were renamed correctional work colonies and became subordinated to the administration of Home Office of the Estonian Soviet Socialist Republic (ESSR). But in reality it meant that the system was submitted to the Home Office of USSR. The activity of the Institutions was adjusted to the departmental instructions of the USSR Home Office. These instructions were often in conflict with the Correctional Work Code of ESSR and reflected the relevant code of the Russian SFSR on which the entire USSR was ruled. Estonian prisons were guarded by Home Office military troops whose activity was based only on USSR rules and not the ESSR law.

During the 80ies the number of inmates in Estonian prisons was more than 10 000.

There were no colonies in ESSR for certain types of inmates, such as highly dangerous recidivists. Moreover, other inmates were sent to forestry colonies and mines in Northern Russia and Siberia for different kinds of forced labour. The negative consequences of this practice came to light only later.

The employment in the colonies fulfilled the need for public works in the USSR to a large degree. Normal correctional work was sacrificed for large-scale production and the system was conceived to cater to the interest of fulfilling quotas of the Economic Plans. Criminals were appointed as foremen and « authority men » and in return for securing « order » and production their violations of the basic rights of the detainees were often condoned. This developed a negative attitude among inmates towards the law and the regime brought with it a growth of recidivist crime in the middle of the eighties.

The result was that it became impossible to pursue a specifically Estonian effort to rehabilitate inmates, in particular as 95-91% of the staff did not speak any Estonian.

Finally, it should be mentioned that in 1990 the entire prison industry was dismantled. All prison workshops were closed and the equipment was either moved to Russia or wilfully destroyed.

5. In August 1991 Estonia regained her independence. During the years 1990-1993 a large number of experienced staff left Estonian prison system for diverse reasons (left the country, left for the commercial sector, lack of linguistic skills, etc.). The Russian military troops, in charge of the outside guarding of the colonies, were pulled out with a very short notice time, -and as from 5 March 1992 the Prison Board had to take over the outside guarding of colonies.

It was necessary rapidly to constitute a supervision service, but because of rushed recruitment the result was a low quality of staff. During the following year 487 officials were dismissed for different reasons, in total 42,2%.

Because of the frequent change of the general directors of Prison Board, it was difficult to carry out a consistent correctional policy. The overwhelming majority of the personnel who remained in the prison service, had no realistic perspective to get Estonian citizenship under the existing law. An inquiry as per 1 November 1992 showed that only 36,5% mastered the Estonian language, and in 1993 the percentage was 39,7%. Only 19,9% of the staff were citizens.

Under those conditions it was quite problematical to form professional supervision guards and staff for other than necessary prison functions.

The reform efforts relating to the implementation of sanctions during the period 1991-1993 include the following :

- * The setting up of the independent Prison Board within the Home Office ;
- * The setting up of the Estonian Correction and Executive Board and the transfer of the prison system from the Home Office to the Ministry of Justice ;
- * The elaboration of a draft new Criminal Code, the purpose of which is to initiate a sanctions policy in accordance with European standards, that is to say : to increase non custodial sanctions and to decrease the application of long-term deprivation of liberty ;
- * The adoption of the Code of Enforcement Procedure ;
- * The introduction of a rehabilitation system for persons who will be or have been released from prisons ;
- * The elaboration of a supervision mechanism (probation system) for persons who have been released on probation or who, by court order, are under parole from penal institutions.

The Estonian State Prison Board was formed on 16 August 1991 by the Government's ordinance No 156 for the Home Office. The main task for the Prison Board was the organising of the work in the penal establishments.

The Code of Enforcement Procedure was introduced in 1993, on which is based the reform of the prison system. It defined the purpose of the custodial sanctions and laid down the principle that the inmates' socially positive contacts should be stimulated. There will be created a new type of prison institutions, in which there will be three regimes : quarantine, general and beneficial regime.

With the establishment of the Code of Enforcement Procedure the Prison Board was transferred from the Home Office the Ministry of Justice (Government's ordinance No 268 from 30 August 1993) and reorganised in 1994 by the Government's ordinance No 123 as the Estonian Correction and Executive Board.

Detention conditions in prisons started to be improved and the groundwork for the renovation of the existing institutions was laid. Attention was also given to the reduction of the detention pending trial, and, in this context, to the urgent need for judicial reform and the naming of new judges, which would lead to the acceleration of criminal cases in courts.

One important element of the reform is the training of prison personnel. In 1992 the Training Centre started its work and also in the same year the Correction College of the Academy for Public Safety.

In the beginning of the 90ies the elaboration and adaptation of the rehabilitation system started. In 1992 the first security homes were established by the Criminal Work Centre of the Church for persons who have been released from the prisons so as to further their social integration. At present the Tartu and Tallinn security homes give advice and material help to many such persons.

During 1994 were built:

- Security facilities in Murru Prison
- Storage and workshops in Maardu Prison
- A sport complex and a house with 58 apartments in Rummu for the prison officials.

In 1995 the following improvements were made :

- Canteen facilities, also for social functions, for inmates in Harku Prison
- Facilities for remand prisoners in unit No. 2 in Tallinn Prison.

6. This reform activity will be pursued, taking account of the financial and human resources at the Government's disposal. The CPT Report will provide an essential element in the Government's assessment of priorities for the allocation of funds on the annual budgets earmarked for social progress and improvements.

In this context, the Government will also be inspired by other Council of Europe texts, notably Recommendations No. R (87) 3 on the European Prison Rules and No. R (98) 7 concerning the ethical and organisational aspects of health care in prison. Moreover, the recent accession by Estonia to the Council of Europe Social Development Fund will hopefully make possible the financing of certain aspects of the necessary reform of current prison structures, in particular, in the health sector.

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REACTION TO THE IMMEDIATE OBSERVATIONS

7. When the CPT delegation visited Estonia in July 1997, it made, in pursuance of Article 8, para. 5 of the Convention, the eight observations which are reproduced in paragraph 7 of the Report.

The Government conveyed its preliminary reply to the CPT Secretariat by a letter from the Ministry of Justice of 24.10.1997. Apparently, this information arrived in Strasbourg too late to be taken into consideration for the final drafting of the CPT's Report in November 1997.

This reply was commented upon by the CPT in a letter addressed to the Estonian Permanent Representative to the Council of Europe on 22.04.1998. ;

8. The Immediate Observations were the following:

Concerning Police Arrest Houses:

I.O.-1 The Arrest House at Tartu should be fully withdrawn from service

The first stage of the building of the new Tartu Arrest House will be completed at the end of October 1998 and by then the old arrest house will be closed entirely. The approximate cost of the arrest house is 9 million EEK. The two sobering up cells are used from time to time for police custody purposes as provisional (up to 48 hours) detention cells. Without them the work will be impeded in Tartu Country Court, Tartu City Court and Tartu Police Prefecture.

I.O.-2 Steps should be taken without delay to provide a mattress to every person detained in an arrest house

All arrest houses have now been fully equipped with mattresses.

I.O.-3 The existing outdoor exercise facilities at Jõgeva Arrest House and the Arrest House No 2 in Tallinn should be brought back into service

To arrange for outdoor exercise and to guard detainees requires additional manpower and material means. Supplementary resources for this purpose are being sought. Under article § 85 of the Enforcement Procedure Code no outdoor exercise facilities are foreseen for persons under administrative or criminal arrest in isolated or quarantine regime. The same applies to persons in detention pending trial (TMS § 170 and 171).

The Ministry of Internal Affairs will, however, try to align practice on rules prevailing in the European Union.

In the near future Tallinn Arrest Houses No. 1 and 2 will be joined in the present building of the Internal Security Operations Regiment. In one wing of this building a new arrest house will be built with all modern requirements, the cost of which will amount to 12,5 million EEK.

I.O.-4 The disciplinary cells at Arrest House No 1 in Tallinn and the Arrest House at Viljandi should be withdrawn from service. As regards the disciplinary cells in other arrest houses, steps should be taken to ensure that they are all equipped with artificial lighting and a means of rest and that no one is held in them for longer than a matter of hours.

The disciplinary cells in the arrest houses mentioned above have been closed. In all other arrest houses, with the exception of the Arrest House in Ida-Viru, the disciplinary cells have access to natural light.

On April 30, 1998 a new arrest house in Viljandi, which meets all the requirements, was completed. The new arrest house becomes operational in July, this year, when the entire building of police prefecture will be completed (total costs 13,5 million EEK).

As for Arrest House No. 2 in Tallinn - see I.0.-3 above.

Concerning Prisons:

1.0.-5 The use of the small waiting cubicles in the Central Prison in Tallinn as holding facilities should be discontinued

The cells have been closed since 01.08.1997.

Most of the cubicles have been condemned and only one is kept for storage. New premises have been made for inmates waiting to be sent to other prisons.

I.0.-6 The two disciplinary cells ("kartzers") at the Viljandi Juvenile Prison should be withdrawn from service

The punishment cells will be repaired during the present year. Money has been allocated for this purpose. It is planned to enlarge the windows to fix the ventilation etc. For the time being the cells are rarely in use and only as an extreme option to prevent disturbances.

Concerning Psychiatric Establishments:

I.0.-7 Immediate steps should be taken to find alternative and more appropriate hospital accommodation for a 15 year old patient in the Tallinn Psychiatric Hospital.

The patient in question has been moved from the Forensic Unit to a semi-open unit of the same hospital

I.0.-8 The situation in Unit No 4 of the Valkla Social Welfare House should be reviewed.

Since January 1998 a new director and eleven additional client carers to the Valkla Social Welfare House have been appointed and assigned mainly to Unit 4.

INTERIM REPLY TO OTHER RECOMMENDATIONS,
COMMENTS AND REQUESTS FOR INFORMATION

9. The present Interim Report will indicate on the basis of Part III of the CPT Report: Recapitulations and Conclusions (pages 71 to 77) and of its Appendix 1 (pages 79 to 93),

- the action which has already been taken by the Estonian authorities and
- the proposals which they are at present examining with a view to implementing the suggestions and the advice given.

In this context they will also endeavour to provide the information expressly requested.

Nevertheless, it should be borne in mind that some of the structural changes required to give full satisfaction to the CPT's recommendations will demand time and require resources which are not immediately available. For example, the evident shortcomings of the Central Prison in Tallinn to which the CPT has drawn attention cannot be fully remedied until this prison has been taken out of use in 1999 after the completion of the Tartu Prison actually under construction. Similarly, outdated and run-down establishments can only be radically improved in the context of a comprehensive medium term investment strategy.

However, the CPT may be assured that its Report has resulted in an increased awareness that reform is urgent and that the Government has taken steps to promote a general overhaul of the correctional system as such to be submitted in due course to Parliament.

A. Police Establishments

1. Preliminary Remarks

a. requests for Information:

I-1 Clarification as to the legal value of statements made to the criminal police prior to the first interrogation by an investigator (paragraph 10)

It is necessary to make distinction between a witness and a suspect. In accordance with paragraph 130-1 of the Criminal Procedure Code an investigator has the right to verify if a person knows facts of importance for the given criminal case. For this purpose he/she is invited to the police and interviewed. If during the interview it becomes clear that there is a ground to suspect the interviewed person of having committed a crime, a written order is drawn on qualifying the person as being a suspect. Thus the legal status of a person later being interrogated is defined either as a suspect or a witness.

I-2 On the changes made in the course of 1997 to the structures of the National Police Board (paragraph 14)

The actual changes in the structure of the National Police are shown in a functional scheme of the National Police.

2. Torture and other forms of physical ill-treatment

a. requests for information:

I-3 On the number, in respect of 1996 and 1997, of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result (paragraph 22)

The number of complaints of ill-treatment made against police officers in police detention houses during last two years were the following :

In 1996 - 20 complaints, resulting in 2 disciplinary proceedings initiated against the police officers ; in 1997 - 31 complaints, resulting in 1 criminal proceeding initiated, where the police officer has been acquitted by the court; and in 6 disciplinary proceedings where 2 police officers were punished by a disciplinary sanction.

I-4 On the criminal/disciplinary sanctions imposed in 1996 and 1997 following complaints of ill-treatment by the police (paragraph 22)

See I-3

I-5 On the administrative procedure applied in cases involving allegations of ill-treatment by the police, including as regards the safeguards which ensure their objectivity (paragraph 22)

When the police division has responsibility for a given police detention house, gets an allegation of ill-treatment, each fact is considered by a disciplinary unit in a form of disciplinary investigation which defines the circumstances of an eventual offence. The results of investigation determine the extent of responsibility for the fact of ill-treatment and the required disciplinary punishment.

b. recommendations

R-1 A very high priority should be given to professional training for police officers of all ranks and categories/ having regard to the remarks made by the CPT, and experts not belonging to the police force should be involved in this training (paragraph 19)

In accordance with paragraph 161-1 of the Criminal Code (abuse of official position) any act of illegal use of firearms, use of violence or torture or ill-treatment by an official or a person on duty is criminally punished by imprisonment up to 6 years. Of course, a high priority is given to professional training for police officers of all ranks and categories. Estonian State Defence Academy is planning in 1998 a special police training course « Human Rights and the Police » which is meant for medium-level managing police officers.

R-2 An aptitude for interpersonal communication should be a major factor in the process of recruiting police officers and during the training of such officers, considerable emphasis should be placed on acquiring and developing interpersonal communication skills (paragraph 19)

The same requirements are set for police cadets at the National Police School, which trains police service recruits within the basic training course, the program of which includes subjects of Human Rights and Police Ethics. The aptitude for interpersonal communication is taken into account when selecting police school students during the entrance tests.

R-3 The relevant national authorities as well as senior police officers should make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely (paragraph 20)

The reply concerning this recommendations overlaps at large with the previous one. The State authorities as well as the top

management of the police have always condemned facts when police officers treated inmates in an inhuman or humiliating way. Each police officer does know well that ill-treatment, use of violence or humiliating attitude towards the persons being in the custody of the police is not acceptable and legally prohibited.

R-4 All criminal subjects taken into police custody should be brought promptly before a judge (paragraph 21)

According to part 1 of paragraph 35-1 of the Criminal Procedure Code (Duties and Rights of suspects, convicts and persons under criminal prosecution) claims : » A suspect has the right to know what he is suspected of, to have a lawyer and to meet him with no other person being present or having no restrictions in the number and duration of the meetings. He has the right to know that all his statements can be used against him. A suspect has the right to make statements or to refrain from making them. He also has the right to make recusations, allegations or applications as well as to attend the court considering issues concerning custody or prolongation of custody by the police. With the permission of the investigator a suspect may participate in investigative proceedings. »

R-5 Whenever a judge receives an allegation of ill-treatment by the police or observes that a criminal suspect brought before him may have been a victim of ill-treatment, he should immediately request a medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor (paragraph 21)

Observance of the law during the criminal investigative proceedings is supervised by the Prosecutor's Office in conformity with the Prosecutor's Office Act and the Criminal Procedure Code (CrPrCd, paragraph 120). Thus a person in the custody of the police always has a real opportunity to turn to the prosecutor or to the judge with an allegation to defend his rights, bringing the matter to the attention of the prosecutor.

R-6 The return of prisoners to police premises should require the express authorisation of the competent judicial authority (paragraph 23)

Carrying on investigative proceedings concerning a defendant being in the custody of the police and already committed to prison usually and mainly takes place in the prison. However there are some investigative proceedings which cannot be performed at the place of detention (suspect's testimony connected with the crime scene or other concrete circumstances - Criminal Procedure Code, paragraph 153-1); in some cases - in the procedures of presenting the suspect for Identification -Criminal Procedure Code, paragraph 137, etc.). The location of each step of investigative proceedings

is fixed in the records and it is unlikely that the prisoner's transfer from the prison to the police premises or elsewhere is done without a respective official authorisation.

R-7 In respect of every occasion on which inmates are removed from prison at the request of an investigator, a formal record should be kept of the reason for their removal and of all measures taken during their presence on police premises (paragraph 23)

See R-6

c. comments

C-1 Further questioning of persons committed to prison might preferably take place in prison rather than on police premises (paragraph 23)

As we have already mentioned, the questioning of persons committed to prison usually and mostly take place in prison.

3. Conditions of detention

a. requests for information

I-6 On the issue of the unsuitability of existing police arrest house facilities for prolonged periods of detention (paragraph 40)

The first stage of the Tartu Arrest House's new building is planned to be completed by the end of October 1998 and then the old one will be entirely closed. Periodically, subject to the current situation, two cells of sobering up facility are used time to time for police custody purposes as provisional (up to 48 hours) detention cells.

In the nearest future Tallinn Arrest Houses No.1 and No.2 will be unified in the building of former premises of the Internal Security Operations Regiment. There will be built up a new Arrest House as per modern requirements. Its cost will be 12.5 million Estonian kroons.

b. recommendations

R-8 Immediate steps should be taken to ensure that all persons detained in police arrest houses should be provided with a mattress, blankets and sheets which are cleaned at appropriate intervals (paragraph 39)

All police arrest houses are provided with mattresses. There still are some problems with blankets and sheets, since there is some limitations of the budget for purchasing a complete number.

R-9 Immediate steps should be taken to ensure that all persons detained in a police arrest house should have the necessary basic hygiene products at their disposal (paragraph 39)

All efforts are undertaken to supply the arrest houses with necessary hygiene products. However, to supply soap, toothpaste, towels and toilet paper to the arrest houses at the moment is not possible due to the limited budget.

R-10 Immediate steps should be taken to ensure that all persons detained in a police arrest house should be allowed to take a hot shower at least once a week (paragraph 39)

In the police arrest houses of 9 County and City Police Prefectures (of 17) which have shower facilities the inmates can use that once a week. In others with no shower facilities, there is no possibility to do that. Using some public shower facilities outside arrest houses is excluded because of safeguarding problems. In these police arrest houses the inmates are not kept for longer than 2-3 days and further are transferred to a regional pre-detention facility or a prison. In future we are trying to solve the problem step by step, equipping arrest houses at least with minimal possibilities to ensure washing pr showering facilities for the inmates.

R-11 Immediate steps should be taken to ensure that all persons detained in a police arrest house should receive the necessary materials to maintain their cells in a clean and hygienic state (paragraph 39)

Police arrest houses receive to some extent materials to maintain the cells in a clean state within the limits of the budgeting.

R-12 Immediate steps should be taken to improve cell lighting in arrest houses and to verify that cell ventilation and heating are adequate (paragraph 39)

Measures are taken to improve arrest house lighting, ventilation and heating. The radical improvement of these conditions can be achieved during renovation of the present old-type detention facilities or building new ones.

R-13 Immediate steps should be taken to increase substantially the amount of food provided to persons detained in arrest houses and to ensure that they have ready access to drinking water (paragraph 39)

At present the amount of food provided to persons detained in arrest houses has been substantially increased. It was different in different county police prefectures. In 1997 an average sum of money per a detainee food was from 13.7 Estonian kroons a day in Võru County up to 19.0 kroons a day in the Tallinn arrest house. In 1998 by the order of the Director General in all county arrest houses the sum must be equal, making 19.0 kroons per a detainee a day, however each prefect proceeding from his possibilities can increase that up to 36 kroons a day, what is equal to an average daily salary rate.

R-14 Immediate steps should be taken to ensure that arrest houses possess a stock of appropriate reading matter for distribution to detained persons (paragraph 39)

In comparison with the previous period detainees in the arrest houses now get newspapers and magazines from those which the police prefecture gets on the basis of a regular subscription. In future police prefectures will subscribe to more newspapers and other publications taking into account the needs of the arrest house inmates.

R-15 Immediate steps should be taken to review health care cover in arrest houses/ taking into consideration the remarks made in the CPT Report (paragraph 39)

All police prefecture arrest houses are covered by health care and have medical care services. Larger police arrest houses (Tallinn, Narva, Pärnu) have permanent health care service by local medical staff. In smaller arrest houses the health care service is performed by local public health care squads. Establishing a permanent local health care service and providing them necessary medicine and other health care materials for all county and city police prefecture arrest houses depends to a great extent on the financial possibilities of each prefecture.

R-16 The possibility of offering outdoor exercise to persons detained in police arrest houses should be examined as a matter of urgency (paragraph 39)

According to the Executive Proceedings Code paragraph 85, the conditions for persons punished in administrative or criminal order (arrest) in a temporary detention place, no outdoor exercise facilities are foreseen. The same is valid for persons in detention pending trial. The Ministry of Internal Affairs is trying to harmonise the respective legal acts with the requirements of the European Union. Then a general reform in the arrest houses will be carried out.

R-17 The recommendations listed above under no. R-8 to R-16 should apply mutatis mutandis to the detention facilities at Harju Police District Headquarters (paragraph 41}

Of course the recommendations of provisions R-8 to R-16 with respective alterations will be applied to the detention facility at the Harju County Prefecture Headquarters. An appropriate study and application measures are under consideration.

R-18 Anyone detained for an extended period at the Harju Police District Headquarters to be held in one of the detention facility's larger cells should be provided with a platform on which it is possible to lie down (paragraph 41}

See R-17

R-19 Steps should be taken to remedy the shortcomings identified in the cells at Elva and Lasnamäe Police Stations; in particular, anyone held within them overnight should be provided with a mattress (paragraph 42)

See R-8.

R-20 Conditions of detention in all police stations in Estonia should be reviewed, having regard in the criteria laid down in the CPT Report (paragraph 42)

Estonian Police Board is working at implementation of the CPT recommendations and is ready to amend the conditions of detention in all police prefecture arrest houses; however, that needs additional material means and funding. The Ministry of the internal Affairs tries to get additional funding for the budget of the Police Board for the years 1999 and 2000 to raise the detaining conditions European standards.

4. Safeguards against the ill-treatment of detained persons

a. request for information

I-7 On the establishment of an ombudsman in Estonia, including on any powers concerning the supervision of conditions and the treatment of persons deprived of their liberty which it is envisaged to give to the ombudsman (paragraph 59)

At present a question on establishment of a position of ombudsman, including function of supervising of conditions and treatment of persons deprived of the liberty, is under consideration at the Ministry of Justice. So far there is no legal act in Estonia which determines the place and the role of an ombudsman in the law enforcement structure. And it is up to that Ministry to make a proposal for legislation on the subject.

b. recommendations

R-21 Measures should be taken to ensure that persons apprehended by the police are entitled, as from the outset of their custody, to inform a relative or a third party of their choice of their detention by the police (paragraph 46)

The necessity of informing a relative or a third party of detention of a person taken into the custody of the police and a duty of the police who detained the person are stipulated by provisions of the Criminal Procedure Code. That is always done by the request of the detainee or by the police officer in charge

R-22 Measures should be taken to ensure that persons apprehended by the police are entitled, as from the outset of their custody, to have access to a lawyer (paragraph 46)

A person taken into the custody of the police has the right of access to a lawyer and this right is ensured by the Criminal Procedure Code, paragraph 36-1, which specifies the participation of a lawyer in the criminal procedure. In conformity with the Code a suspect, a convict or any prosecuted person has the right to have a lawyer whom he chooses from the persons allowed to act as a lawyer by the law. A lawyer also can be chosen by another person by request of the defendant.

Since the lawyer's participation in the investigative proceedings is obligatory and if a defendant having no lawyer demands lawyer's presence at the proceedings, the lawyer is assigned by an investigator.

A person to whom a lawyer has been assigned, has no right to refuse his defence except by application for his replacement within the order prescribed by law.

R-23 The possibility exceptionally to delay the exercise of the right mentioned under R-21 above should be more closely circumscribed, made subject to appropriate safeguards and strictly limited in time (paragraph 47)

According to the Criminal Procedure Code, paragraph 102, part 3, a suspect taken into the custody of the police has the right to submit complaints on the activities of the investigator, to give clarifications and or submit applications. A suspect is given the right to inform at least one relative about his being detained through the investigator, if that does not affect the investigative proceedings.

If a chosen lawyer can not fulfil his defence duties within defined time-limits or for some reasons cannot participate in investigative proceedings during 5 days, the investigator or the judge shall select another lawyer for replacement.

R-24 A doctor should be called without delay whenever a person in police custody requests a medical examination and police officers should not seek to vet such requests (paragraph 50)

If a person being in the custody of the police requests a medical examination, no obstacles can be made. In addition police officers might also request such examination taking account of the state of health of the defendant.

R-25 All medical examinations of persons in police custody should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of the police officers (paragraph 50)

Medical examination of persons in police custody shall take place out of the sight of the police officers if a doctor finds it necessary.

R-26 A person taken into police custody should have the right to be examined, if he so wishes, by a doctor of his own choice, in addition to the medical examination carried out by the doctor called by the police authorities (paragraph 51)

As to the examination of a detainee by a doctor he chooses, a problem will arise concerning payment of the medical services, particularly if a medical expert or doctor is chosen from abroad.

R-27 A form setting out in a straightforward manner the rights of persons taken into police custody should be systematically given to such persons at the very outset of their deprivation of liberty and the form should be available in an appropriate range of languages (paragraph 52)

All persons taken in the police custody must be fully informed about their rights according to paragraph 35-1 of the Criminal Procedure Code, at the moment of their being taken into the custody. That is done by the police officers. The law also requires that all proceedings be performed in the native language of the person who will be ensured an appropriate interpreter.

R-28 A code of conduct for police interviews should be drawn up (paragraph 54)

The art of questioning depends and is based mainly on the practical experience of the police officer. However the main part of the art and the skill depends on professional training and the principles of police ethics.

R-29 Steps should be taken to ensure that whenever a person is detained in a police establishment, for whatever reason or length of time, the fact of his detention is recorded without delay (paragraph 55)

The facts discovered by the Commission concerning delay in records made immediately after the arrest of persons can be ascribed to the police disregarding regulations in force. These facts are considered as examples of low professional culture and are punished by disciplinary sanctions. In order to exclude such negligence in the future more severe control measures will be used.

R-30 The relevant prosecuting/judicial authorities throughout the country should be encouraged to carry out regular and unannounced visits to places where persons are detained by the police (paragraph 58)

One of the supervision duties of the prosecutor's office is to carry out regular and unexpected visits to the police detention places with an aim to check the actual situation of the detainees and the observance of the requirements of the law. This supervisory activity is regulated by law.

B. Prisons

1. Preliminary remarks

a requests for information

I-8 On measures taken to render employment in the Estonian prison system more attractive (paragraph 67)

See R-32 below

b. recommendations

R-31 Special measures should be introduced with a view to providing more work places for prisoners (paragraph 66}

Unfortunately at this moment useful employment of inmates is insufficiently low, but substantive steps have been taken to improve the situation.

It is true that useful employment (participation in the productive and tutorial process) during the years decreased as follows :

- 1989 71,9% ;
- 1990 59,5% ;
- 1991 51,0% ;
- 1992 19,7% ;
- 1996 42,9% ;
- 1997 41,6%.

The Prison Board has coordinated and reorganised the employment departments so as to secure their more effective functioning and handling of production.

But at the same time it is admitted that the quality of production is low, because the equipment in prisons is out-dated and this is why the marketing of the production is difficult.

One solution is the involvement of private companies (from outside the prisons) in the prison production process. They install their own equipment in the prison, secure the supply of raw materials and take care of the marketing of the products. The companies also train the inmates and pay their salaries to the prison authorities. Currently this idea is being implemented as follows :

- A trading company has delivered to Murru Prison 4 lumber frames and will start lumber production soon ;
- A trading company has installed a half-automatic line for the production of wooden furniture handles and it is planning to broaden the variety of the production to other kind of wood products ;
- A trading company has installed equipment on which inmates mount the alcometer nozzles for export to Germany ;

- On the same basis it is planned soon to start the knitting of tights and socks in Harku Prison.

Another solution is to employ inmates with positive behaviour outside the prison perimeter. In 1997 inmates were employed on the spring reaping in Pirita and on the clearing of land under the electricity lines. Another valuable option for employment is to involve inmates in the repairing and constructing of the buildings inside the prison (f. inst. prisoners worked on the construction of new units of Tallinn Prison compound the repairing of the roofs in the dormitories in Rummu Prison, etc.)

Negotiations have been started and will be continued with the Canadian company « Strongbar » on the creation of a joint company together with the Ämari Prison. It should start the production of the necessary fittings for prisons (doors, windows, etc.) and involve the labour of inmates. Industrial premises do exist in the prison already.

The implementation of these plans and the change of the penal policy, which should reduce the general number of those persons who are punished with a custodial sentence, should bring the percentage of useful employment of prisoners up to 65% in year 2000.

R-32 Appropriate steps should be taken to fill all vacant prison staff posts (paragraph 67)

By 1 January 1998 the number of posts foreseen on the budget were 2808, of which 2335 were filled, i. e. 84%. The methods put into practice so far have not been able to secure the quantitative aspect of recruitment, but the quality of the staff has been improved. Persons who have only basic education will no longer be recruited ; the number of Estonian speaking staff has been increased and training has improved.

Thus Estonian Prison Board's Training Centre trained :

In 1994	172 prison officials
In 1995	221 prison officials
In 1996	228 prison officials
In 1997	268 prison officials

It follows that the quality level of the personnel has improved. It should also be noticed that the Correction College (which is part of the Academy for Public Safety, established in 1992) has organised two courses in 1996 and in 1997 and, as a result, the Estonian prison system now has the benefit of young qualified specialists. Every year approximately 30 specialists with higher education should graduate from the Correction College and this would be a great help in strengthening the staff.

At present a group of specialists is elaborating a new concept for training. It should be completed by summer 1998 and all prison officials will follow a one year training program

instead of the present short basic course. This program will consist of theoretical training and practical experience. In the training program greater effort will be made to teach how the prisons work and how to communicate with and treat prisoners.

It is intended to motivate staff by a salary rise in 1999. But it should be recognised that in public opinion employment in the prison system carries low prestige. This attitude is due to the negative image inherited from the times of the Soviet Union. Determined action will be taken to remedy this situation.

c. comments

C-3 The Estonian authorities invited to take account of the remarks made concerning the prison population (paragraph 65)

The authorities are fully aware of the problem of overcrowding in prison. It is hoped that the criminal custody system (probation) entered into force on 1 May 1998 will result in a number of sentences involving deprivation of liberty, Also the future Confinement Code should relieve pressure on the prison system.

2. Torture and other forms of ill-treatment

a. requests for information

I-9 Whether the Estonian prison service has carried out an enquiry of a general nature into whether prison officers at Ämari Prison are on occasion abusing their authority and ill-treating inmates (paragraph 69)

Since summer 1997, when the CPT visited Estonia, there has been no incident which would have called for criminal action against prison officers concerning an alleged ill-treatment of prisoners by staff.

The investigation of the five cases, which have been mentioned in the Report (criminal action was started before summer 1997) is being continued, but the ascertainment of the truth in those cases is complicated.

I-10 On strategies developed by the Estonian authorities with a view to addressing the problem of inter-prisoner violence (paragraph 72)

As it is mentioned in the Report, security in the prisons and respect for the observance of the prison rules are among the responsibilities of the supervision service. The situation in the prisons directly echoes the quality of the work of this service (breaches of peace, inter-prisoner violence, etc.).

It is a fact that inter-prisoner violence has decreased since the beginning of the 1990ies, which shows the improvement of the

quality of supervision service, One of the reasons why inter-prisoner violence still occurs, as was mentioned in the Report, is that in big institutions (like Murru, Rummu and Ämari Prisons) the camp regime is still applied and the professional level of the supervision staff is still low. It is obvious that in the prisons based on the camp regime 24 h supervision cannot be carried out as it can in the cell-type prisons. Moreover, most of the vacant posts in prisons are at guardian and supervision level. until there is a possibility to do away with the camp-type institutions, inherited from the Soviet Union, some inter-prisoner violence is unavoidable. It is possible to limit the amount of violence by raising the professional level of the supervision officials which is being done within the existing possibilities.

This means that the only way out of the present difficulties is to transform former camp-style prisons into cell-type prisons. After that the supervision of the inmates should improve substantially. This presumes, however, large financial investments and resources, which are currently lacking.

b. recommendations

R-33 Considerable emphasis should, both in the induction courses and in the in-service training, be placed on acquiring and developing interpersonal communication skills the aptitude for which should be a major factor in the process of recruiting prison officers (paragraph 70)

See R-32 above.

R-34 If it is necessary for prison officers to carry truncheons, they should be hidden from view (paragraph 71)

The baton belongs to the equipment of the custodial staff members. It is used for security reasons, mostly in camp-type prisons where prison officials (especially during the night) are substantially less secure than in the cell-type prison. The baton is also carried by custodial officers in Tallinn Prison. This year Tallinn Prison was rearranged so that a prison officer will assume the role at the same time as a security worker and as a social worker. Contacts between inmate and prison officer should improve which should reduce the need for making the baton visible.

3. The Central Prison (and Tallinn Prison)

1) *the remand population*

a. requests for information

I-11 on the future of the Central Prison (paragraph 78)

The Estonian Prison Board is of the opinion that the Central Prison should be condemned as the building is unfit for the purpose. It was built as a naval fortress and was taken into use as a prison in 1914. It has also been shown that economically it is unprofitable to keep the Central Prison in use.

The reasons are that :

- the architectural layout of the building is impractical (large cells, insufficient lightning in cells, etc.)
- technical facilities (the water supply, canalisation and the central heating piping) are derelict and to replace them would be too expensive
- there is no proper ventilation
- there is permanent humidity and damp in the building, because the prison is situated on the seaside.

It will be necessary to reallocate the prisoners at present detained in the Central Prison, For this reason it is planned to build a new prison in Tartu. The Government decided on 12 May 1998 to find the necessary funds and the construction work will start shortly (see also the comments below concerning the Tartu Prison). A working group has been set up to find solutions to the problems raised by the continued, but temporary, use of the Central Prison and it is examining the possible sale of the prison by auction to raise funds for further modernisation of other prisons.

b. recommendations

R-35 The policy of transferring prisoners from the Central Prison should be pursued actively (paragraph 78)

A reduction of the number of remand prisoners in the Central Prison can be made only by their transfer to the Tallinn Prison which is built according to modern standards. This can be done only within certain limits. In the remand unit of the Tallinn Prison up to 5 persons are kept in a cell for reasons of lack of available space.

The cells in the Central Prison from which the inmates are transferred to Tallinn Prison/ will remain. in use and as a result the overcrowding of other cells will be reduced. Demolition of the cells which are less than 6 m² is programmed and they will soon be condemned.

The general conditions prevailing in the Central Prison will be improved step by step, dependent on resources, which are short at present.

- Every inmate has his own mattress today;
- During the period August 1997 to April 1998 19 cells have been repaired. During the preparation for last winter the heating system in 27 cells was repaired.
- In July 1997 4 new wards were opened in the hospital's tuberculosis unit ; at the present time (according to the plan) the remaining wards of the tuberculosis and surgery units are under repair ;
- In the fourth quarter of the year 1997 the sauna in the tuberculosis unit was opened and a room for long-term meetings was built. The indoor gymnasium for the convicted was also opened ;
- In 1998 the disinfection-cell, the kitchen and dependencies (dish washing room, storeroom and corridor) were repaired.

R-36 No more than four prisoners should be held per cell in Blocks 1 and 2 of Tallinn Prison (paragraph 79)

See R-35 above.

R-37 Emphasis should be placed on reducing cell occupancy levels in the Central Prison rather than on closing specific sections of the establishment (paragraph 79)

See R-35 above.

R-38 Any cell measuring less than 6 m² should be taken out of service as prisoner accommodation (paragraph 79)

See R-35 above.

R-39 Immediate steps should be taken to provide remand prisoners with all items necessary to maintain an appropriate level of personal hygiene (paragraph 79)

The prison provides the inmate with 200 gr. of soap every month for individual hygiene. Toilet paper, toothbrushes, toothpaste and sanitary bandages are available in the prison shop and they are on the obligatory list of the articles for sale. The prison service is short of financial resources, which is why it is not able to give these items free of charge. Inmates, who do not have suitable clothes of their own, will be given clothes by the prison.

R-40 Steps should be taken as a matter of urgency to improve radically the regime activities for remand prisoners at the Central and Tallinn Prisons (and also for such prisoners in other prisons) (paragraph 80)

The recommendation to provide for the remand prisoners the possibility of being outside the cell at least 8 hours per day, of participating in sport activities, of working, of studying, etc., cannot be implemented at the present time, as the Central and Tallinn Prisons cannot be rearranged to this effect.

2) *prisoners sentenced (to death or) to life imprisonment*

b. recommendations

R-41 Urgent steps should be taken to develop regimes offered to prisoners sentenced (to death or) to life imprisonment, due account to be taken of the remarks made by the CPT (paragraph 85)

Estonia ratified the 6th Protocol of the Convention for the Protection of Human Rights and Fundamental Freedoms in March 1998 and consequently during peacetime the death penalty is abolished. New regimes (for the inmates sentenced to life imprisonment) will be established under the Confinement Code, which is under elaboration in the Ministry of Justice. Under the draft such inmates will be kept separately from other inmates but will have the same rights as others. Moreover, it is planned to transfer all such inmates to the new Tartu Prison, where they should be detained under normal material conditions.

c. comments

C-4 The routine handcuffing of prisoners sentenced (to death or) to life imprisonment when taken out of their cells appears not to be in accordance with the 1987 European Prison Rules (paragraph 85)

The use of handcuffs when inmates are taken out from the cells, is for reasons of security and precaution because these inmates have, so to speak « nothing to lose ». Under the European Prison Rules (No. R (87)3) clause 39 sub-clause a) it is allowed to use handcuffs as a precaution when transferring prisoners to prevent escape.

C-5 The authorities are invited to consider possible forms of assistance with a view to overcoming the problems experienced by prisoners sentenced; (to death or) to life imprisonment as regards contact; with the outside world (paragraph 86)

For financial reasons prisoners are provided with paper and envelopes at the expense of the prison only for writing to the public authorities. For personal correspondence the inmates have to pay themselves.

3) *the sentenced prisoner workforce*

c. comments

C-6 The occupancy level of the dormitories in the Central Prison accommodating working sentenced prisoners is high (paragraph 87}

The overcrowding in the Central Prison is due to shortage of space. As the regime applied is different, the convicted inmates have to be kept separately from the remand prisoners. This section accommodating convicted inmates is of limited capacity, but at least these inmates do not have to remain all day in their cells, and may move about more freely.

4) *general health care services in the Central Prison*

a. requests for Information

I-12 On the subject of multi-drug resistant forms of tuberculosis (paragraph 100)

In April 1998 an examination showed that 12% among inmates have multi-drug resistant forms of pulmonary tuberculosis. Within the limits of possibilities, these inmates have been isolated in the Central Prison Hospital from other patients and they are provided with treatment by drugs responsive to the illness.

I-13 On HIV antibody testing (paragraph 102}

As from December 1997, tests are done only on medical indication and with the inmate's consent. All the results of the analysis are brought to the notice of the inmate concerned.

b. recommendations

R-42 Steps should be taken without delay to fill the vacant full-time post for a dentist and to provide appropriate dental care to prisoners, free of charge for those who are not in a position to pay for it (paragraph 89}

The authorities started in 1997 and continued in 1998 to install in a number of prisons either new dental treatment equipment (eg. the Maardu Prison} and to up-date old equipment, as a result, the quality of dental treatment in prisons is substantially improved.

In the Central Prison there is a full-time dentist whose office has been recently renovated. Certain dental services like filling and extraction of teeth are free of charge for prisoners.

In the Central Prison there is also a psychiatry section and, when necessary, inmates are sent there for treatment. The Central Prison has 1 full-time and 1 half-time psychiatrist as well as 2

full-time psychologists.

All the inmates are examined by the doctor on the day of their arrival to the Central Prison, but those arriving after 20.00, are examined on the next day.

Analysis of HIV, dysentery and typhus has been done since 1 December 1997 only on the basis of medical screening. The inmate will be informed of the results of the analysis.

During the medical examination there is, as a general rule, no third party present in the office. But sometimes, if necessary, a prison guard secures the safety of the medical staff.

All injuries will be accurately recorded both in the medical file and in an additional separate injuries file to which investigatory bodies have access.

On arrival at the prison the inmate is examined by the therapist and the psychiatrist and the results are recorded in the medical report. If the person has been in prison earlier, his/her earlier medical report will be continued.

In the Central Prison there is also a doctor of health protection, who is inspecting the food made in the kitchen, checking quality of the products used, controlling the rations given to prisoners as well as being in charge of the general sanitary situation in prison.

The medical staff shall inform the prison administration of any problems which will require action or assistance.

Since December 1997 the inmates suffering from tuberculosis are given control treatment. Inmates are not Mantoux-tested as these tests are done only on children up to 15.

On the first or second day after the inmate's arrival in the prison, he/she will be X-rayed. 50% of the inmates in whom tuberculosis is detected, were infected before they entered prison. In the Central Prison a regular X-ray examination is done twice a year.

The doctors talk individually with drug addicts and they are made aware of the risk of spreading AIDS and hepatitis through the use of needles.

Preservatives are given to inmates free of charge from the AIDS prevention centre.

Medical staff are vaccinated free of charge against hepatitis B.

Inmates, who so wish, will be vaccinated against diphtheria and tetanus. The vaccine against hepatitis is expensive and there is no money for buying it for prisoners.

Doctors are getting supplementary training mainly at Tartu University but some doctors have had their training in Finland. Nurses supplement their training mainly in specialised units of large hospitals.

The sanitary conditions in the Central Prison Hospital are very bad. The floors should be repaired, the walls and ceilings repainted. Also, overcrowding is a serious problem. Under the draft Confinement Code (which is being elaborated) health care in prison will be a part of the state health care system and it will

be financed from the state budget and from the governmental health insurance budget. This means that the health care in prisons should become a part of a general health care system and will be organised by the Social Ministry. It is also under consideration that the treatment of inmates will be on two levels - every prison will have a medical section and when the inmate needs specific treatment, he/she will be directed under surveillance to a civil hospital. This means that the closure of the prison hospital is under debate.

R-43 Steps should be taken without delay to remedy the shortcomings observed as regards the provision of out-patient psychiatric or psychological care for inmates at the Central Prison (paragraph 90)

See R-42 above.

R-44 The manner in which medical screening is carried out at the Central Prison should be reviewed, patients should be made aware of the medical nature of the screening process and be provided with information about the tests to be performed and, subsequently, with the results thereof (paragraph 92)

See R-42 above.

R-45 Measures should be taken to ensure the confidentiality of medical interviews with newly-arrived inmates (paragraph 92)

See R-42 above.

R-46 The record drawn up following the medical examination of a newly-admitted prisoner (or a prisoner transferred or returning to the establishment) should contain the information indicated by the CPT and the results of the examination should be made available to the prisoner concerned; the same approach should be followed when a prisoner is medically examined following a violent incident in prison (paragraph 95)

See R-42 above.

R-47 Prison health care services should assume a more active role in monitoring living conditions in prisons and, if necessary, advocate appropriate measures with a view to promoting the health of prisoners (paragraph 97)

See R-42 above.

R-48 Information about transmissible diseases (in particular hepatitis, AIDS, tuberculosis, dermatological infections) should be regularly provided - including in writing - to both prisoners and prison staff (paragraph 98)

See R-42 above.

R-49 The manner in which prisoners are being screened for tuberculosis should be reviewed in the light of the remarks made by the CPT (paragraph 99)

See R-42 above.

R-50 Appropriate measures should be taken to combat the transmission of hepatitis B in the light of the remarks made by the CPT (paragraph 101)

See R-42 above.

R-51 Prisoners who are screened for HIV should be provided with appropriate counselling before and - if necessary - after the test (paragraph 102)

See R-42 above.

c. comments

C-7 It is desirable that written information be provided to prisoners on their arrival, making them aware of the existence and the operation of the health care service and reminding them of basic hygienic measures (paragraph 92)

See R-42 above

5) *the Prison Hospital in the Central Prison*

a. request for information

I-14 On the admission of prisoners to civil hospitals (paragraph 104)

The Central Prison Hospital has the medical Instruments and staff necessary for more general treatment of inmates, but sometimes it is necessary to have recourse to very highly specialised medical help (f.e. more complex operation) In which case the inmate concerned is transferred to a civil hospital. As it was mentioned in the report, it will on occasions become complicated as:

- Inmates are not covered by health insurance and the prison institution (who directed the inmate to the general hospital) has to pay for the medical expenses in the civil hospital. The treatment is often quite expensive and imposes additional expenses on the prison institution.
- The prison is bound to guard an inmate during his/her stay in the civil hospital, which means more work for the prison staff already under strain;
- The negative, often resentful attitude of civil hospitals, because the inmate will be put together with the « decent » citizens.

It has been considered closing the Central Prison Hospital and to transfer inmates to the civil hospital for treatment. But economically this is not rational, because the treatment of inmates in a hospital will be almost twice as expensive which is confirmed by the following figure :

- Year by year the number of inmates getting treatment in the Central Prison Hospital has increased reaching 1744 in 1997, incl. 277 in the tuberculosis unit, all together 18 673 bed-days. One bed-day costs- 320, -EEK, so the total price is $18\ 673 \times 320 = 5\ 975\ 360$.-EEK. To this should be added the costs of X-Rays and the bacteriological tests.
- In 1997 in the hospital were carried the 154 operations incl. 32 under general narcosis and 31 operations on digestive organs. From the blood supply unit there has been bought 32,7 litres blood plasma and 22 litres of erythrocytes mass costing 86 812.-EEK. One appendectomy operation costs 4 000.-EEK.
- For 1997 the total costs amounted to 14 millions. To this should be added the expenses of inmates being guarded in the civil hospital.

In 1996 when the Central Prison Hospital was an independent structure, its budget from Estonian Prison Board was 7,7 million crowns incl. acquisitions.

After the likely condemnation of the Central Prison itself the Central Prison Hospital will be moved. The search for a new and more suitable building is being actively pursued, taking into consideration that:

- The Prison Hospital should have at least 160 places with 4 main sections: tuberculosis, surgery, psychiatry and digestive illnesses. There is no need to increase the staff.
- Additionally it would be necessary to have separately an X-Ray office for patients with pulmonary tuberculosis, a workroom for the social worker, a record-keeping office, a common-room for staff, an autoclave and sterilisation room, a ward for post-operative patients.
- At present the wards are overcrowded, and 30% more ward space would be needed which would allow a ward occupancy of 3-4 prisoners in accordance with the suggestions made in a recent European medical expert report. In every ward there should be toilet and washing facilities, sufficient natural lightning and ventilation.

b. recommendations

R-52 Plans should be drawn up urgently to remedy the current shortcomings concerning hospital care for prisoners (paragraph 109}

The Ministry of Justice has set up a joint prison commission, consisting of representatives of different governmental bodies, to examine the following issues :

- 1) the means and possibilities of guaranteeing appropriate standards for health care/ employment, education, social and living conditions in prison;
- 2) the current problems in the above-mentioned spheres ;
- 3) the quality required of the staff of the prisons in the given section.

The work of the commission will take place in four stages :

- 1) At the first stage each member of the commission will elaborate a questionnaire according to the responsibilities given to him and he will send it to the prisons to be answered within 3 months.
- 2) At the second stage an analysis of the answers as well as preparation of practical responses will be done within one month.
- 3) At the third stage three months visits to the prisons will take place. Social and health care units, workshops and mechanical shops, general and vocational schools will be inspected. Interviews with corresponding officials will be organised, cross control of records will be made, documents will be demanded and checked.

- 4) After completing the practical part each member of the commission will produce a report/ which will be presented to the Head of the commission for the final report by January 14, 1999.

Presenting the final report to Minister of Justice in January 1999 will complete the work of the commission.

Since April 28, 1998 preparatory private meetings have taken place between some members of the commission. The first plenary meeting took place on May 14, 1998.

The Ministry of Social Affairs is represented on the commission by an official who, in case of need, will involve medical specialists in the work, for example, for solving problems concerning tuberculosis, psychiatry, traumatology, etc. In addition to the above-mentioned commission a commission of specialists is being set up in the Ministry of Social Affairs, which will give an expert appraisal on the work arrangement, working conditions and therapeutic principles in a particular prison. The commission was formed in May and decisions will be proposed within a month after inspecting the prison concerned. It is hoped that by this general action the shortcomings referred to in the CPT-report will be remedied.

R-53 Immediate steps should be taken to reduce overcrowding at the Prison Hospital (paragraph 109)

See R-35 above

R-54 Immediate steps should be taken to provide activities to patients (paragraph 109)

At present there is no practical possibility of providing substantially more activities to patients, the reason being lack of space and funds.

R-55 Immediate steps should be taken to ensure that all patients are offered at least one hour of outdoor exercise every day, unless there are medical reasons to the contrary (paragraph 109)

Steps have now been taken to ensure that patients are offered at least one hour of exercise per day.

R-56 Immediate steps should be taken to guarantee ready access of health care staff to patients at all times (paragraph 109)

Medical staff are present in the prison at all hours.

R-57 Immediate steps should be taken to bring into service the four additional rooms intended for patients suffering from tuberculosis (paragraph 109)

See R-35 above

R-58 The level of care offered to prisoners undergoing in-patient psychiatric treatment at the Prison Hospital should be reviewed and effort should be made to develop psycho-social therapeutic activities and to adapt them to the individual needs of patients (paragraph 109)

4. Other issues arising out of the visits to the Central and Tallinn Prisons

a. requests for information

I-15 Whether disciplinary procedures provide prisoners with a right to be heard on the subject of the offences which they are alleged to have committed and to appeal to a higher authority against any sanctions imposed (paragraph 122)

On the basis of existing legislation the right of inflicting disciplinary punishment is vested in the governor or his/her deputy of the prison institution.

According to the Code of Enforcement Procedure and the prison regulations, the inmate has to be informed about the offences of which he/she is accused and he/she has a right to make observations. All relevant material concerning the disciplinary punishment will be added to the inmate's individual file. In practice the inmate will sign the disciplinary decision, so that he/she is aware of what he/she was punished for.

Inmates also have the right to appeal to a higher institution (f. e. Estonian Prison Board), which is bound to control the legality of the punishment and inform the inmates of the result. In the Prison Board an independent Ombudsman Department has been set up to examine complaints and other claims.

b. recommendations

R-59 The question of visits for remand prisoners should be reviewed in the light of the remarks made by the CPT (paragraph 111)

Visits to, correspondence and the use of the telephone by remand prisoners are at present regulated by the Code of Enforcement. They will be revised under the draft Confinement Code. A remand prisoner will have a right to have one visit every two weeks and have unlimited correspondence and telephone calls. These rights may be limited by order of the court or the prosecutor, but it is not allowed to limit visits by representatives of the defence, prosecutor, the court or the Ministry of Justice.

R-60 The visiting entitlement of quarantine sentenced prisoners should be increased (paragraph 112)

Under the draft Confinement Code the quarantine regime will be abolished. 11 should become law by 1999.

R-61 All newly-admitted prisoners should be supplied with written information on the regime in force in the establishment and on their rights and duties, in a language which they understand; prisoners should record that they have received such information (paragraph 116)

Information about the rights and duties of the prisoner and about the prison regime is given to the inmates on their arrival to the prison. Generally this information is submitted to the inmates orally. Steps have been or will be taken to ensure that this information will be put on the prison notice-board and that the inmates will confirm with his/her signature that he/she has been given such information (for example, in the Murru Prison blocks this information is already available on the notice-board). The legislation concerning the prisons is available to the inmates in the prison libraries and he/she may ask for it from the competent prison officials.

R-62 The material deficiencies observed in the disciplinary cells at the Central and Tallinn Prisons should be rectified and the permitted occupancy levels in the disciplinary cells at Tallinn Prison should be reduced (paragraph 118)

Details as to how the disciplinary cells shall be equipped and who may be held there are given in the Rules and Regulations of the prison institution which prison officials must apply in their every day work. It is laid down that an inmate who has been placed into a disciplinary cell, is not allowed to have visits, to send and receive mail, to buy or order goods from the prison shop and to smoke. The inmate may take with him/her bedclothes and linen, towel, soap, toothbrush and paste. A different regime, for instance, allowing access to reading material will require new Rules and Regulations which are currently under preparation.

The material conditions (limited access to natural light, dampness etc.) will be improved after the renovation of the disciplinary cells, but at the moment there are no resources available. The outdoor exercise facilities for the inmates in the disciplinary units are regrettably small, but it is hoped that next year funds will be available to remedy this situation.

R-63 Persons placed in a disciplinary cell should be allowed to have access to reading matter (paragraph 119)

See R-62 above.

R-64 Steps should be taken to improve - and more particularly to enlarge - the outdoor exercise facilities for inmates placed in the disciplinary unit at Tallinn Prison (paragraph 120)

See R-62 above.

R-65 The activities offered to sentenced persons retrograded to a quarantine regime should be developed (paragraph 121)

See R-60 above.

R-66 It should be ensured that complaints by prisoners are promptly delivered to the appropriate authority; if necessary, prisoners - including those placed in a disciplinary cell - should be supplied with writing material for this purpose (paragraph 124)

Correspondence by the inmates is at present regulated by the Enforcement Procedure Code and by the Rules and Regulations of the prison institutions, but. the system will be changed when the Confinement Code will come into force. Writing paper and envelopes are free for inmates only for writing complaints to a public institution (the same goes for the inmates in the disciplinary cell). Personal Correspondence is on the inmates' own expenses. As was mentioned in the report, the Correspondence of inmates is placed under the control of the prison administration which has the right to keep letters maximum 3 days to ensure that the content is in conformity with the Rules. If further delay has occurred, it is for other reasons (f.e. postal services) not dependent upon the prison institutions.

R-67 A system of visits by an independent body for both sentenced and remand prisoners should be maintained, taking into account the remarks made by the CPT (paragraph 125)

At present the prosecutors supervise the activities of the prisons. Under the draft Confinement Code the supervision will be entrusted to a special judge for the enforcement of sanctions. In addition, specific prison commissions will be set up and be composed of well-known public representatives.

R-68 Immediate steps should be taken to remedy the shortcomings observed in the sanitary facilities used by immigration detainees held at Tallinn Prison (paragraph 128)

At present the internees are being transferred from the Tallinn Prison to the Harku detention centre. In that centre the living conditions have been improved and it is not considered to be a prison as such.

In the near future an internment center will be built in accordance with acceptable standards (as the Geneva convention on Refugees has now entered into force in respect of Estonia) and in

due course the internees will be transferred to the new center.

R-69 Immediate steps should be taken to offer a wider range of activities to immigration detainees, in particular to those held for prolonged periods (paragraph 128)

See R-68 above.

c. comments

C-8 The authorities are invited to review visiting arrangements in prisons in order to ensure as far as possible that prisoners are able to receive visits under reasonably open conditions (paragraph 113)

This question will be dealt with in the new Confinement Code, see below.

C-9 The authorities are invited to examine whether the control of prisoners correspondence is causing excessive delay and, if necessary, take remedial action (paragraph 114)

See R-66 above.

C-10 It would be useful if a description of the main features of the prison's regime, a list of prisoners' rights and duties and a summary of the avenues of appeal open to them were to be posted in an appropriate range of languages on prison notice boards (paragraph 116)

See R-66 above.

C-11 The President of the CPT might usefully be added to the list of authorities with whom prisoners can communicate by confidential letter (paragraph 124)

The Prison Board agrees to this suggestion, but its implementation will require parliamentary approval. The suggestion will be included in the new Confinement Code.

C-12 The authorities are invited to review their policy concerning immigration detainees in the light of the remarks made by the CPT (paragraph 129)

See R-68 above.

5. Viljandi Juvenile Prison

a. requests for Information

I-16 A full account of the educational and vocational activities offered to inmates at Viljandi Juvenile Prison, including a breakdown of the number of inmates involved in each activity (paragraph 137)

In addition to the sport activities the inmates also have the possibilities of getting a vocational and a general education. Theoretical and practical job training is available in the following areas :

- for assembly locksmiths (in the Estonian language group there are 12 and in the Russian language group there are at present 13 inmates);
- for painter-plasterers (4 inmates) ;
- for soft-furniture repairers (4 inmates) ;
- for lathe-mill workers ;
- for bricklayers (this training will start in the autumn 1998).

In addition to the vocational education there is also a general educational school in prison and the teaching is provided at basic and secondary school level. Classes are taught in Estonian and in Russian languages. By now three classes have been completed for Estonian and Russian speakers. In April 1998 there were 33 inmates in Viljandi Prison who participated in the general educational programmes.

I-17 Whether the gymnasium has now been brought back into service (paragraph 137)

The indoor gymnasium in Viljandi Juvenile Prison is (after repairs to the central heating) again in working order and it is used by inmates and also by the prison administration. After these repairs it is heated during the winter.

b. recommendations

R-70 The closed isolation rooms used for disciplinary purposes should be equipped with a table and chair (paragraph 134)

In the Viljandi Prison inmates who are serving a disciplinary sentence in a closed cell may keep text-books and other reading material. Tables and chairs have been installed in the cells. Unfortunately there is no sanitary unit in the disciplinary cells. To build one would be very expensive and at the moment there are no funds available.

When the disciplinary penalty is fixed account is taken of the seriousness of the offence. In practise it is very rare that

the inmates are placed in the disciplinary cell or a locked cell. Other kinds of disciplinary penalties such as admonition and denial of the long-term vacation are applied in preference.

The general material conditions are being improved within the limits of the financial resources available.

R-71 Inmates placed within the isolation rooms should be guaranteed ready access to a proper lavatory at all times (paragraph 134)

See R-70 above.

R-72 All inmates subject to cellular confinement as a punishment should be allowed access to reading matter (paragraph 134)

See R-70 above.

R-73 The approach followed as regards disciplinary sanctions and more particularly sanctions involving placement in disciplinary cell/closed isolation room should be reviewed (paragraph 135)

See R-70 above.

R-74 The authorities should persevere in their efforts to improve material conditions in the prison (paragraph 136)

See R-70 above.

c. comments

C-13 It would be desirable for the closed isolation rooms to be equipped with a call system (paragraph 134)

In the new prisons (such as Tartu prison) and in the modernised prisons (such as the two blocks in Tallinn prison for remand prisoners) a call system has been installed.

GENERAL OBSERVATIONS ON THE PRISONS

The development concept up to the year 2000.

In 1993 the Code of Enforcement Procedure entered into force. It entrusted the Estonian Correctional and Executive Board with the task of reconstructing the existing institutions, of building new institutions, of securing employment for the inmates and of improving living conditions up to the European Standards in addition to the improvement of the working conditions of the staff.

For the step by step accomplishment of these tasks, a general plan was drawn up by the Board valid up to the year 2000. In addition yearly plans have been elaborated and concrete tasks have been solved.

The Governments's decision no 41 of 23 May 1996 endorsed the principles of « The creation of a prison system in accordance with the present requirements ». Among the general goals should be mentioned :

- To promote the transfer from over-crowded institutions in the Tallinn area to regional prisons ;
- To aim for the transition from the camp-system to the cell-type system ;
- To create humane living and working conditions and to open up possibilities for detainees to acquire an education/training ;
- To arrange for effective supervision of the inmates and to implement programs for their integration into society ;
- To create good working conditions for prison officials and to grant them effective social guarantees ;
- To upgrade the qualifications of the staff ;

For the achievement of these goals following sub-programs have been created :

- the organisational changes of the law enforcement system ;
- treatment of inmates ;
- the reconstruction of institutions / construction of new institutions, investments ;
- reorganisation and development of prison work ;
- training of prison officials (instruction, supplementary and academic training) ;
- the adaptation of the legislation (regulating the law enforcement) to the international standards ;

In the following details will be given on some projects, which are under realisation at the moment.

Tartu Prison

The reconstruction of this regional prison for 500 inmates will make it possible to transfer inmates from the Central Prison. Also prisoners who have long-term sentences and life-time sentences would be detained there and it would serve as the South-Estonian remand prison. A working group has prepared the necessary decisions, i.e.

- The future location of the prison has been agreed with the local authorities;
- The land shall belong to the state;
- The detailed planning of the location has been confirmed;
- The geological tests of the ground have been carried out;
- The architectural concept and the conditions of the projects have been defined;
- A study of the project in the general economic context has been undertaken;
- The comparative analysis of the cost of the renovation of the Central Prison and the cost of the building of Tartu Prison has been made;
- The tenders procedure has been decided;

The cost of the building should become 400 millions Estonian crowns. As it is not realistic to get this amount of money from the state budget, the Estonian Prison Board is planning to build it on a leasing basis. The builder of the prison and the investor will be found through public bidding. The construction should last two and a half years.

For the purpose of planning this prison specialists from the United States of America, Finland and Germany were consulted. It is planned to build single cells 10 m large with WC and washing facilities. In the prison compound there will be also workshops.

Criminal custody system (probation)

The aims of the legislators are to align the Estonian legal system on those of the Member States of the European Union but account should be taken of the limited resources in Estonia. This calls for new sanctions policy, taking account of the economic and social burden for society in the context of the general reform of the criminal justice system. Criminal policy should be based on the inevitability of the punishment, but not necessarily on its severity. More attention should be given to non-custodial sentences which will be one of the means to reduce the number of inmates. Before the turn of the century it is planned to introduce a criminal justice reform (new Punishment Code, Confinement Code and necessary legislative decrees) and this would make it much easier to release ahead of time those persons who received custodial sentences.

The Criminal Custody Act, part of the criminal justice reform, came into force 1 May 1998. By criminal custody is understood the supervision of convicted persons who are on probation or have been released ahead of time from prison. Supervision is ordered by the court and implies specific obligations which will contribute to social re-integration. The aim of criminal custody is to influence delinquent persons not to become recidivists.

Taking into account experiences elsewhere in Europe a system of alternative sanctions has been accepted, which takes account of the social costs and the individual needs of the persons who have committed a crime. The purpose of creating a criminal custody system is to reduce the prison sentence considered in many cases to have a harmful influence and to offer an alternative treatment possibility.

In order to facilitate the application of the criminal custody system regional criminal custody units have been created and attached to the provincial and municipal courts. They will co-ordinate the work in the regions concerned. The first criminal custody officials have been recruited and they are being trained at present. After they have passed their exams they will start practical work with offenders.

The successful use of the criminal custody system should help to alleviate the overcrowding in prisons. Provided that the system will function normally the courts will impose fewer custodial sentences, and will sentence the convicted person to criminal custody. Courts will accept more applications for release ahead of time on probation, provided that it is possible to submit the released prisoner to effective supervision which will contribute the offenders social re-adaption. The existing system, based on the work of police inspectors was ineffective. There were not enough inspectors, they had no special training and the task was performed in addition to other police work, moreover the system was legally incomplete. Under the new legislation the system has been developed and now provides for a variety of supervision possibilities.

It should be added that at the present time the number of persons sentenced to probation is almost 6000 and this means that 200 officials are needed. On the strength of the experiences of other states it has been decided that the ratio should be 1 official to 30 persons in criminal custody. In 1998 more than 100 officials will be trained and as much in 1999.

Nord-Balt Prison Project

The Nord-Balt Prison Project is the title of a regional project focused on cooperation between Estonia, Latvia and Lithuania on the one hand and Denmark, Finland, Norway and Sweden on the other.

The overall objective of the Project is to improve and develop the prison system in the Baltic States. The project is based on Assessment Reports, drawn up by Council of Europe experts on the Prison Systems; Estonia (Lakes/Taylor, 1993 and Lakes/Grönholm, 1997}, Latvia (Lakes/Rostad, 1994) and Lithuania (Lakes/Colliander, 1995).

The Council of Europe initiated the Nord-Balt Prison Project in 1996 to further stimulate the cooperation in the region. The role of the project is to keep a record of the ongoing bilateral activities between the Nordic and Baltic States, to assist and advise on the coordination of these activities and to fill in gaps between existing activities, inter alia, by engaging additional European expertise and support.

A steering committee, consisting of one contact person from each Baltic and Nordic country and two general rapporteurs, appointed by the Council of Europe, held its first meeting within the framework of the Nord-Balt Prison Project at the Council of Europe in Strasbourg on 19-20 February 1996, The meeting, inter alia, pinpointed primary activities for implementation in the future. A second steering meeting was held on 9-10 January 1997 and the third on 15-16 December 1997.

The Nord-Balt Prison Project is funded through the Council of Europe budget for cooperation programmes with central and eastern Europe (the Themis Plan and the Demosthenes Programme). Some Nordic States have provided the project with additional funding (voluntary Contribution) and, in 1997, Financial support was given by the European Commission of the European Communities. The main part of the activities are, however, funded by the Nordic states within the framework of their respective bilateral cooperation with Estonia, Latvia and Lithuania.

At the moment , all the Estonian prisons are twinned with similar institutions from Nordic States:

- Central Prison - Stockholm Remand Prison, Sweden;
- Harku Prison - Hämeenlinna Central Prison, Finland;
- Rummu Prison - Norrköping Prison, Sweden;
- Murru Prison - Herstedvester State Prison, Denmark;
- Ämari Prison - Vridsloselille State Prison, Denmark;
- Tallinn Prison - Hall Prison, Sweden;
- Pärnu Prison - Jyderup State Prison, Denmark;
- Maardu Prison - Naarajärve Open Prison, Finland;
- Viljandi Prison - Ringe State Prison, Denmark;

Named twin-prison projects will allow both prisons to learn or take over from one another. First steps towards this direction have been made in Tallinn Prison, where, on the example of the Swedish colleagues, has been started a new project called "Contact Person" and was included a new prison structure. The purpose of the project is to improve the communication and contacts between inmates and prison personnel. Also there will be an official who will be dealing with the problems of the certain inmates.

The Prison Medical Service

By law the Ministry of Social Affairs has been entrusted with the general administration and supervision of health care, except in the defence forces and in the prisons. As regards the latter, it is the Ministry of Justice which is responsible and its budget provides the necessary funds.

At present the medical assistance in prisons is arranged in three stages:

- The out-patient health care by medical sections in the prisons;
- In-patient treatment given in the Central Prison Hospital;
- Health service provided by specialised public health centres"; The costs are paid by the prison from which the inmate was directed to get the treatment.

By the new Confinement Code (compared with the present system) important changes have been introduced on the basis of the following principles:

- The health care in prisons is a part of the state's general health care system;
- The health care in prisons is financed from the state budget and from the governmental health insurance budget;
- The health care in prisons is organised by the prison doctor who is appointed by the prison governor;
- The prison doctor is bound to follow the inmates state of health, treat them according to the possibilities in prison and, if necessary, to direct them to have treatment into appropriate outside institutions;
- For these purposes has been created a permanent treatment structure in each prison. Facilities are provided by the Ministry of Justice;
- The expenses of the treatment of the inmates will be met by the governmental health insurance budget;

Thus, the medical service will be attached to the integrated nation-wide health care system and the Central Prison Hospital will be closed in due course. This would require the modernisation of the treatment facilities of the prisons.

Experts from the International Council of Prison Medical Service (ICPMS, visited Estonia from 20 to 26 October 1997. In their report they, amongst other things, pointed to the incomplete material base in the medical area and to the problem of overcrowding. They, also, recommended that the organisation and size of the medical service be changed, be better attached to the general medical system and aligned on International standards (WHO, UN, Rules of the Council of Europe).

New Confinement Code

The Confinement Code, one of the most important legal acts concerning the implementation of the criminal sanctions, is part of the general reform of the criminal justice. It will be linked to the new Punishment Code to be enacted in 2000.

The Code of Enforcement Procedure, which is still applicable to the enforcement of civil, administrative and criminal judgements in spite of the conditions in these three respective areas being very different. The draft Confinement Code will relate to enforcement of the criminal sanctions only.

It foresees a radical reform of the present criminal enforcement system, the alignment of the Estonian legislation on European laws and deals with the enforcement of custodial sanctions together with other criminal sanctions. Thus it is in line with the draft Punishment Code and with the Criminal Custody Law, adopted on 17 December 1997.

The main goal of the draft is that imprisonment should be adapted to the needs of each inmate. It is inspired by the laws of other European states giving the main role to the inmate in the re-socialising process. In other words: stimulating the sense of personal responsibility and facilitating his/her return to normal life after release.

The corner stone of the draft is § 18 defining the purposes of the confinement which are to avoid recidivism (special prevention) and at the same time assuring the interests of legal order (general prevention). This article is inspired by the draft Punishment Code. The special prevention is assured by general and vocational education, work and social work with inmates, including contacts with the outside world. General prevention is promoted by the supervision of the inmates.

The project is very detailed as regards the questions of the occupation of the inmate (education, work) which should take account of abilities of the inmates and, if needed, provide them with new skills, of social help and of outdoor Communications (maintenance of the inmates" positive contacts with the society). The draft Punishment Code foresees short-term confinement only in

rare cases and consequently the draft Confinement Code is concerned mainly with the implementation of long-term programs with inmate (more than six months).

Some questions have been left out of the draft Confinement Code. They are now regulated by the Code of Enforcement Procedure, but by the nature they do not belong to this area at all. The draft Confinement Code does not regulate questions concerning foreign internees (now dealt with in the Aliens Law), nor does it deal with inmates serving life sentences. According to the draft, they are kept separately from other inmates, but under similar conditions.

The draft provides that prisons are under the responsibility of the Ministry of Justice, being local institutions exercising public authority. The Estonian Prison Board will no longer exist and the administration and the control of the prisons will be entrusted to a new department also subordinate to the Ministry of Justice. The Ministry will exercise supervision over the prisons and be responsible to Parliament. It will coordinate the allocation of inmates to the various prisons on the basis of criteria laid down by the Minister. These criteria of offenders reflect three specific concerns: re-socialising, organisational efficiency and respect for the Rule of Law. Re-socialising function of the prison contains guidelines as to how the punishment should be enforced. The organisational function defines the nature of the prisons. The Rule of Law function determines the judge in charge of the implementation of the punishment.

The sentences will be served in open or closed institutions as in most countries in Europe. The distinction between the open and the closed prison is based on the degree of security, i.e. measures for prevention of escapes. In closed prisons these measures are walls, guard posts, video and electronic guarding, grating and limited walking space etc., and in the open prison security is based on the trust of the inmates. The use of security measures has an impact on the inmates rights and duties, on contacts with the outside world and on the inside organisation of the institution.

As a result of the high crime-rates in Estonia the draft Confinement Code has given priority to the closed institutions. Normally inmates start serving their sentence in a closed prison and as a part of treatment strategy may be transferred to an open prison. As an exception, some prisoners may start to serve their sentence in an open prison, for instance, persons who have been convicted for having committed minor crimes and those who have not been in custody pending trial. For security reasons the draft does not foresee the transfer to an open prison of those inmates who have committed serious crimes. Transfer to an open prison will be decided in each individual case by the prison governor in

agreement with the Ministry of Justice. This agreement provides an additional control over transfer. Open prisons are for prisoners who have committed minor crimes and inmates who have behaved well and have proved trustworthy.

In comparison to the existing system, the draft will change the rules concerning the inmate's correspondence. The Confinement Code in all countries allows the prison administration to check incoming and outgoing mail and to listen in on telephone calls. This is necessary for the security in prison and for a better knowledge of the personality of the inmate. The draft will indicate (based on the German system), in which cases the prison administration has a right to detain mail. The administration has to inform the inmate about it. As the control of correspondence constitutes the exception to one of the basic rights - right to the secrecy of the mail and of messages passed by telegraph or telephone - it is necessary that the law would lay down the exact limits of the right of the prison administration in this respect.

The draft will extend the possibilities of finding work for inmates. It allows the state to establish business firms and trading companies inside the prison compound and also outside. It also gives this right to the judicial persons of private law or natural persons. In both cases the relations between the private partners and the state will be regulated by contract. Supervision of the inmates during the work will be secured by prison staff. In respect of business firms or trading companies established by the state, product planning and marketing will also be carried out by the state. In these cases the control and direction of work will also be done by the prison officials or persons appointed by the prison administration, As regards the business firms and trading companies which are established by judicial persons under private law or natural persons the control and direction of the inmates' work will be carried out by their own staff and they are also responsible for the planning and marketing.

As Estonia has ratified the Convention on Forced or Obligatory Work (Convention 28.06.1930 no 29, came into effect in respect of Estonia on 07.02.1997, see Official Gazette II 95,45,201), the inmate must accept the work in such private businesses. This is necessary because the convention prohibits obligatory work without court decision and without the supervision by government institutions, but in order to secure the employment of the inmates it should be allowed for prisoners to work in such business firms, if they so wish.

C. Psychiatric facilities

1. Safeguards in the context of involuntary admission / consent to treatment

a. requests for information

I-18 On the legal provisions and current practice concerning patients' informed consent to psychiatric treatment and the information to be provided to patients following treatment (paragraph 143)

The authorities are aware of the problems of providing psychiatric treatment in Estonian hospitals. Due to the historical context the legal regulations have not been adequately developed yet and the mechanisms for the protection of human rights in psychiatry are insufficient.

A working group is established in the Ministry of Social Affairs to develop additional regulations to the Estonian Law of Psychiatric Assistance and to draft a Law of Patients Rights.

The objectives of the working group are:

- to work out the procedures for improving the quality of taking informed consent ;
- to develop the necessary safeguards and regulate the practice for involuntary treatment, isolation, physical restraints and isolation for children ;
- to find ways and means for the creation of review mechanisms and for dealing with complaints ;
- to develop the regulation for confidentiality in medical care ;
- to regulate the patient advocate service in psychiatric institutions.

The working group will involve psychiatrists and lawyers as well as representatives from different interest groups.

The group is giving full attention to the European Convention for the Prevention. of Torture and Inhuman or Degrading Treatment or Punishment and will take all the principles in the Convention into serious consideration. The working group will also take into account the following documents :

- Patient Rights in Europe, WHO, Decl. 121, 25.05.94 ;
- The Protection of Persons with Mental Illness and the Improvement of Mental Health Care, United Nations, A/Res/46/119/18.02.92 ;
- Charter of the Rights of Psychiatric In-Patients, World Psychiatric Association, 9th World Congress, Rio de Janeiro, 1993 ;
- Statement of Ethical Issues Concerning Patients with Mental Illness, World Medical Association, 47th General Assembly, Bali, Indonesia, September 1995.

c. comments

C-14 The activities of the Psychiatric Patient Advocacy Association should be extended to all psychiatric establishments (paragraph 144)

The Ministry of Social Affairs has financed the Psychiatric Patient Advocacy Association to provide the advocacy service in the following institutions ; Tallinn Psychiatric Hospital, Jämejala Psychiatric Hospital, Tartu University Psychiatric Hospital, Koluvere Care Home, Valkla Care Home.

To expand the service to all psychiatric establishments would involve 2 hospitals and 14 care homes in addition.

The Ministry of Social Affairs has supported the activities of the Psychiatric Patients Advocacy Association since 1994. The organisation has been financed from the state budget for three years now. The ministry is giving a high priority to the extension of the Psychiatric Patients Advocacy in the next few years.

2. Forensic sections at the Tallinn Psychiatric Hospital

a. requests for information

I-19 About the planned new forensic unit (paragraph 155)

The only way to improve the situation in the Forensic Unit located in Central Prison is to open the new Forensic Psychiatric Centre. This is one of the priorities in health care in Estonia in the nearest future. The plan to establish the Forensic Psychiatric Centre on the site of a burnt down building on the compound of Tallinn Psychiatric Hospital has been accepted by Ministry of Social Affairs, Ministry of Internal Affairs and Ministry of Justice. The Ministry of Social Affairs has applied for 2,5 million EEK from the state budget 1998 to design the centre, and 25 million EEK from the state budget 1999 to build it. When the new Centre is completed, the Forensic Unit in the Central Prison will be closed.

The area of the Centre is planned to cover 2500 m². The structure of the Centre is foreseen as follows:

- Psychiatric department with strong supervision (compulsory treatment) for 40 patients;
- Psychiatric department with ordinary supervision (compulsory treatment) for 30 patients;
- In-patient forensic psychiatric investigation department for 20 patients;
- Out-patient forensic investigation unit;
- Units for the occupational therapy, gymnastics and recreation.

It is planned to equip all rooms with modern video and security systems.

b. recommendations

R-75 The deficiencies as regards the living conditions of patients in the forensic psychiatric section at the Central Prison should be remedied (paragraph 146)

See I-19 above

R-76 Steps should be taken to develop psycho-social therapeutic activities for patients at the forensic psychiatric section in the Central Prison (paragraph 147)

See I-19 above

R-77 The current staff arrangements and training in Unit 13 of Tallinn Psychiatric Hospital should be reviewed in the light of the remarks made by the CPT (paragraph 153)

In respect of Unit 13 in Tallinn Psychiatric Hospital the following Information can be given:

- The establishment of an area for walking and simple activities for the patients is almost completed;
- The patients in Unit 13 have permission to wear personal clothing in the unit. If the patients have no personal clothing, the hospital will procure garments for them;
- The psychiatrist of Unit 13 works 8 hours daily. In addition there is round-the-clock surveillance in the unit (a doctor on duty in the hospital) . The doctor on duty can solve extraordinary situations outside the working hours of the unit's psychiatrist.

R-78 Staff in Unit 13 should be reminded that the ill-treatment of patients is not acceptable and will be dealt with severely (paragraph 154)

The Staff has been reminded as requested but no case of ill treatment/sexual abuse has been brought to the attention of the authorities. Increased attention will, however, be given to these issues.

R-79 Appropriate steps should be taken towards minimising the risk of inter-patient sexual abuse/exploitation in Unit 13 (paragraph 154)

See R-78 above

R-80 Plans concerning the opening of a new forensic unit in Tallinn Psychiatric Hospital should be given a high priority (paragraph 155)

See I-19 above

R-81 The hours of attendance by a psychiatrist in Unit 13 should be increased (paragraph 155)

See R-77 above

R-82 Patients in Unit 13 without personal income or support from relatives or friends should be provided with appropriate means so as to allow them to develop a sense of autonomy and acquire basic commodities (paragraph 155)

The Ministry of Social Affairs has access to funds for bringing basic commodities for patients, but according to the law cannot give them « pocket money ».

R-83 Patients in Unit 13 should be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments (paragraph 155)

See R-77 above

R-84 Staff in Unit 13 should persevere in their efforts to develop the range of therapeutic activities offered to patients (paragraph 155)

The Hospital has organised brief courses for the staff with a view to developing therapeutic activities for the patients ; moreover games and a variety of books, etc have been made available to them.

3. Tartu University Psychiatric Hospital

a. requests for information

I-20 On the extent of the use of modified ECT (paragraph 160)

The relatively extensive use of modified ECT in Tartu University Psychiatric Hospital is explained partly by the fact that the in-patient catchments area of the Tartu University Psychiatric Hospital is large compared with other hospitals (over 250 000 inhabitants). There are also patients with severe mental disorders from other parts of Estonia. Due to this feature of intake the prevalence of patients with severe and resistant depressive disorders is high and has increased during the last years and so has the suicide rate in Estonia. It is a well-known fact that modified ECT is an effective and safe method of treatment, especially for severe resistant depressive disorders. Modified ECT was introduced in 1994 and the number of treated patients has increased gradually up to 1997. The use of modified ECT was analysed during 1997 and more restrictive indications to be followed were introduced in the hospital until officially approved guidelines will be available. The rate of use of modified ECT is remarkably lower in 1998 compared with previous years. The Ministry of Social Affairs realises that there is a real need for official guidelines for different medical diagnostic and treatment procedures, including methods used in the treatment of mental disorders such as modified ECT. Many of these guidelines are being developed and some of them are available but there is still a lot of work to be done to regulate all such complicated medical diagnostic and treatment procedures. Guidelines for use of modified, ECT are being worked out at present as well as guidelines for depressive and delusional disorders.

b. recommendations

R-85 Steps should be taken to ensure that all safeguards concerning the involuntary admission of patients to a psychiatric hospital are rendered fully effective in practice (paragraph 158)

It is important to state that the use of restrictive methods concerning admitted patients has remarkably changed during the last 5-10 years in mental hospitals in Estonia. There were 120 beds in the closed units in Tartu University Psychiatric Hospital 10 years ago. The number of beds in closed wards has decreased gradually and there have been only 17 beds since 1996. At same time the service area of the hospital concerning in-patients with severe mental disorders has been increased.

All admitted patients, both voluntary and involuntary, are reported by the responsible psychiatrist in meetings every morning and problematic situations are discussed in a more detailed way. As an additional safeguard for involuntarily admitted patients the

representative of the Psychiatric Patient Advocacy Association has free access to the closed unit as well to other units of the Tartu University Psychiatric Hospital and every possible deviation from patients' rights is discussed with the staff of the units and with the administration of hospital.

A special register for involuntarily admitted patients has been introduced in the hospital.

R-86 All competent patients should be provided systematically with relevant information about their condition and the treatment prescribed for them; relevant information should also be given to patients following treatment (paragraph 159)

Involuntarily admitted patients with severe psychotic mental disorders always have disturbances of cognitive functioning. This will diminish their ability to understand their situation, due to concentration difficulties and decreased abilities to understand any new information, including information concerning their involuntary admission and mental disorders. Consequently they must get information repeatedly from the staff as their ability to understand reality improves in the process of treatment. Estonian psychiatrists realise that providing proper information about the disorder and methods for treatments is essential to achieve good compliance and therefore to obtain better results.

Issues concerning free and written consent to treatment were and are still under discussion in the hospital and also in recent meetings of the Estonian Psychiatric Association. Up to now, according to Estonian law, there is no obligation to get informed consent in written form because every competent patient can refuse treatment and leave the hospital. As a result of the visit by the CPT delegation it is now considered necessary to introduce informed consent in a written form to make clearer the position of the patients concerning treatment. Also the free and informed written consent is absolutely necessary if the patient becomes competent and wants to continue treatment in the hospital. More detailed guide-lines for this purpose have been prepared in the hospital as well as a special form for written consent in which all basic rights are explained to patients (to get proper information concerning condition and treatment, to refuse treatment).

As a basic rule patients have the right to read all medical documentation concerning their condition and treatment during the whole course of, and also after, the treatment and can refuse any diagnostic procedure or treatment.

R-87 Clear guidelines should be set out by the medical direction of the hospital defining the use of isolation of children (paragraph 161)

See R-88 below

R-88 Any use of isolation or physical restraint in respect of a patient should be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking approval (paragraph 162)

The Ministry of Social Affairs understands that isolation and all other means of physical restraint have to be regulated more in detail by the above guidelines. These guidelines concerning physical restraint have prepared both for adults and children in the Tartu University Psychiatric Hospital and are available currently. Appropriate registers are introduced. It has been a basic rule for years that any isolation or physical restraint in respect of the patient can be applied only by order of a medical doctor. The only exception is if the psychiatrist is not available at once and the patient becomes seriously dangerous for himself or for others. In this case the physician must be informed immediately and his approval obtained. The physician concerned reports and a special register records the procedure. It is also stated how often physician must re-evaluate the condition (at least three times a day).

R-89 Any use of isolation or physical restraint in respect of a patient should be recorded in both the patient's file and in an appropriate register with an indication of the time at which the measure began and ended, the circumstances of the case, the reasons for resorting to such measure and an account of any injuries sustained by patients or staff (paragraph 160)

See R-88 above

4. Valkla Social Welfare House

b. recommendations

R-90 An in-depth and independent review and audit should be made of Valkla Social Welfare House in its entirety, in order fully to establish the causes of the serious problems brought to light during the CPT's visit and appropriate remedial action should be taken (paragraph 172)

Attention is drawn to the following aspects:

- The present system of special residential care of mentally retarded and/or mentally ill people is a legacy from the Soviet times. The whole system is at the moment oriented to the institutions, not to persons needing help. That is one of the reasons why the special residential care is not satisfactory from the viewpoint of the client. At the same time the system is very expensive.
- The care of mentally disabled and mentally ill people has never been a priority in Estonia, since the end of 1997 the

Ministry of Social Affairs and some members of the parliament have realised that the question is very important and today it is one of the ministerial priorities for the development of social care.

- Changes have taken place in the special residential care homes during the last 7 years. Institutions are much more open and client-oriented than previously. The residential setting looks much better than, for example, 10 years ago. Still the Ministry is not at all satisfied with the situation in the special residential homes.

- In February 1998 a working group led by the vice-chancellor in the Ministry of Social Affairs was established to deal more thoroughly with the questions of special residential care and to work out new principles for the functioning of the treatment system for mentally retarded and mentally ill people. A working group has already made some first conclusions and suggestions. A draft action plan for the current year has also been prepared. The plan concerns clarification and preparation of diagnostic instruments (different documents, guide-lines) for the evaluation of the status of clients, the enlargement of the number of services available to the clients, the improvement of the system of financing of services, the reduction of the number of beds in institutions. In order to improve the quality of the services the working group has started to work out the new principles for the management of special residential care homes. Some elements will be implemented in 1998 already. The working group will continue work until the end of the year and probably also in 1999.

Valkla Social Welfare House is the biggest residential care home for mentally retarded and ill people in Estonia. It is true that the living conditions could be improved and resources so far available are insufficient.

The improvement of living conditions in Valkla Social Welfare House needs big investments. The ministry has made calculations that total renovation of each house (A, B, C and Unit 4) will cost approximately 12 million EEK (it makes in total 48 million EEK). The state budget is very tight and unfortunately such investments for one care home only cannot be secured in the next few years.

The Ministry of Social Affairs has started to prepare draft documents for the rebuilding of unit B in Valkla Social Welfare House. The first drawings are ready and already approved by Harju County Government and the Ministry. Preparation is continuing and the Ministry is trying to find resources to start the process of rebuilding in 1998. The renovation of unit B will begin this year and the conditions in the bathrooms of all houses will be improved during 1998.

The Ministry plans to evaluate the status and skills (to make an audit) of the clients of special residential homes during 1998. It is hoped that the services can be offered to all clients according to their real needs.

R-91 Staff should be reminded: that ill-treatment of patients is not acceptable and will be dealt with severely (paragraph 173)

Concerning the case of Mr. X (para. 166 of the Report) the Committees attention is drawn to the following aspects:

- The judicial enquiry of the case has been completed;
- It was concluded that the direct reason of the death of Mr. X was acute anaemia caused by bleeding from an ulcer of the stomach.
- There were some signs (suffusions and scratches on the head) which might be caused by ill treatment before death.
- In general it should be added that the case has been discussed among the staff and they will pay more attention to the prevention of ill treatment of clients both by staff and co-clients.

R-92 Staff should be reminded that they have a duty to protect patients from other residents who might wish to cause them harm (paragraph 173)

See R-91

R-93 An immediate end should be put to the practice of using patients as guards (paragraph 173)

In accordance with the recommendation of CPT patients are no longer used as guards of other patients.

R-94 The sanitary facilities in Units A, B and C should be renovated and all such facilities should be kept in an appropriate state of hygiene (paragraph 173)

See R-90 above

R-95 Efforts should be made to provide a more congenial and personalised surrounding for patients; further, patients should be provided with lockable space in which to keep their personal belongings (paragraph 173)

The Ministry has stopped the flow of clients to all residential special care homes, including Valkla Social Welfare House, since February 1998. The Ministry has issued guidelines to the Valkla Social Welfare House to facilitate contacts between the clients and their family members. Initiatives have been taken to look actively for appropriate places for clients of Valkla Social Welfare House outside of the institution (social flats, places in other residential care homes etc.).

As mentioned in the preliminary answer to CPT Harju County Government has started a training programme for the staff of Valkla Social Welfare House. Several different training programmes are available in Estonia for all social workers, including staff

of Valkla Social Welfare House. The staff is very interested in training and it is hoped that their skills concerning the treatment of mentally ill and disabled people will soon improve.

D. Other establishments

1. Ministry of Defence detention facility, Tallinn

a. requests for information

I-21 On any development concerning the military rules on disciplinary arrest (paragraph 179)

Detention of the Regular Armed Forces' servicemen in the penitentiary of the Tallinn garrison

On December 3, 1997, Parliament adopted the Disciplinary Act of the Regular Armed Forces which entered into force on January 1, 1998. The Act provides for the deprivation of liberty of the conscripts as a disciplinary penalty, in case of a disciplinary detention and a disciplinary arrest.

According to Section 20 of the Act, disciplinary detention is the detention of a conscript in custody, in a detention cells specially provided for that purpose. It is allowed to apply disciplinary detention, in case a conscript is unable to control his behaviour and may endanger his own or any other person's health, life or property. It is not allowed to place any conscript, held in disciplinary detention, in a detention facility of a campsite or a garrison, together with other conscripts serving their sentence. The duration of a disciplinary detention may not exceed 48 hours.

According to Section 22 of the Act, disciplinary arrest is the separation of a conscript who has committed a disciplinary offence, from the other conscripts, in a room specially provided for that purpose in a detention facility of the campsite or the garrison, for the period of serving the sentence, with a partial restriction of his rights. Disciplinary arrest is applied with respect to a conscript who has seriously or repeatedly violated the Regular Armed Forces' discipline. Disciplinary arrest may be assigned for the period of 3 to 10 days. The commander who has assigned disciplinary arrest will notify an administrative court thereof. Any conscript held in a disciplinary arrest has the right to be treated in accordance with the terms of a disciplinary arrest which do not demean his dignity; to receive the daily food portions according to the procedures established in the Regular Armed Forces; to receive medical treatment; to receive and mail correspondence; to meet with the chaplain of the unit and take part in religious services held on the territory of the unit, corresponding to his confession of faith; to read the Regular Armed Forces regulations; press publications, clerical and

juridical literature, as well as textbooks. Disciplinary arrest is not applied with respect to female conscripts. Firearms are not used by guarding the conscripts held in disciplinary arrest.

In accordance with Section 55 of the Disciplinary Act, an administrative court is notified when disciplinary arrest is applied to a conscript. In case the administrative court declares the assigning of a disciplinary arrest unlawful, the conscript punished with disciplinary arrest will immediately be released from the arrest. The administrative court and the Chief Inspector of the Regular Armed Forces will be notified without delay and applying for compensation will be paid in accordance with the procedures prescribed by the Law on the compensation for the damage caused for any individual through the unfounded taking of his/her liberty by the state. In accordance with Section 66 of the Act, the detailed procedures of serving a disciplinary arrest will be prescribed by the Disciplinary Regulations. The Regulations are being developed at the present time and will presumably be submitted for approval by the Government during the summer of 1998. In addition to the mentioned categories of conscripts, the Tallinn garrison detention facility is used for the detention of the conscripts sentenced by a civilian court for committing a crime and punished with criminal arrest with a duration not exceeding three months, in accordance with Section 23-2 of the Criminal Code of the Republic of Estonia.

In 1997, the Tallinn garrison detention facility underwent extensive repairs and at present the conditions of keeping the conscripts under arrest, meet contemporary requirements in every respect.

b. recommendations

R-96 Immediate steps should be taken to ensure that all persons held in military detention facilities are provided with a mattress and blankets at night (paragraph 177)

In practice mattresses and blankets are now provided and it will be expressly mentioned in the detailed regulations under elaboration.

See I-21

R-97 The disciplinary regulations should be revised in the light of the remarks made by the CPT; pending such a revision/administrative action should be taken to ensure that all persons held in military detention facilities are provided - as from the first day of detention - with food at appropriate times, including one full meal every day (paragraph 178)

According to the above law the food given to detainees is exactly the same as the food given to the ordinary soldiers.

See I-21

R-98 All persons held in military detention facilities should be allowed access to reading matter which should not be limited to military rules and the Bible (paragraph 178)

See I-21

2. Border guard detention facilities, Narva

b. recommendations

R-99 The recommendation R-96 should also apply to persons held in the Narva border guard detention facilities (paragraph 181)

The arrest and detention cells were provided with mattresses and blankets immediately after the visit by the CPT delegation.

R-100 Steps should be taken to improve the lighting in the locked room and the kartser (paragraph 181)

The shortcomings pointed out in the CPT report have been noted and it is planned to eliminate them during the renovation which will start in 1998 and be completed in 1999.

Follow-up report submitted by the
Government of Estonia
in response to the report of the
European Committee for the Prevention of
Torture and Inhuman or Degrading
Treatment or Punishment
on its visit to Estonia

(received on 18 December 1998)

1. General Observations

1) Introduction

1. Estonia is still a society in transition.

Emerging in 1991 from 50 years of foreign domination under a regime which paid scant attention to human rights, fundamental freedoms and the Rule of Law she has since then made a determined effort to "catch up" with democratic Europe. She fully subscribes to the norms/ values and standards set, inter alia, by the Council of Europe, during the four decades she was involuntarily absent from European cooperation. She is committed to their full implementation in the present and future Estonian society.

2. Before the war Estonia had a high standard of living, in many respects comparable to that of the Nordic countries and of Western Europe, and offered adequate conditions in hospitals, prisons, approved schools and similar institutions. Admittedly, this is not entirely the case to-day. The Estonian Government is fully conscious of the present deficit in structures, facilities, treatment methods and staff training. It should, however, be realised that substantial improvements and significant reforms cannot be achieved overnight. Time and ample resources are required.

This applies to a variety of societal issues. But the gap between the aims and aspirations of the Estonian authorities and everyday reality dictated by the heritage of the past is perhaps widest in the field of prison conditions.

3. The CPT Report, containing numerous and detailed recommendations for improvement and reform, has been extremely useful in promoting new and fresh initiatives. The critical assessment of the present situation, not entirely unexpected, has resulted in an increased awareness of the necessity of some novel medium term and long term planning, taking into account, however, the availability of additional resources and the various other social priorities.

4. It is obvious that the present final Report by the Government to the CPT report cannot give satisfaction on all points raised. Entails of the follow-up action undertaken since the interim report in June 1998 are given in Part 2 of this Report: Specific Observations.

- 2) information on the medium term and long term strategies recently revised

5. But the CPT may be more interested in the recently revised strategies, inspired by the comments made, partly by the CPT, partly by the Nord-Balt Prison Reform Project, which will guide the reform endeavors in respect of places of detention of all sorts during the coming 3-4 years.

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I. CONCERNING THE PENITENTIARY SYSTEM

A) Legislative action and its implementation

As far as the penitentiary system is concerned, the PRIMARY AIMS of the strategy are:

- to implement recent penal law reform and
- to provide the necessary organisational structures which are required for a successful overhaul of the entire system and for a subsequent satisfactory functioning thereof in full compliance with the Council of Europe standards.

It is recalled that since 1991, the year in which Estonia regained her independence, the following legislative reforms, inter alia, have been enacted:

1991: - a moratorium on the death penalty

1993: - enactment of the Code of Enforcement Procedure (amended several times subsequently)

1996: - ratification of the European Convention on Human Rights, incorporating, notably, Articles 2,3,4 and 5 into Estonian domestic law

1997: - laws amending the Penal Code, introducing life imprisonment (as an alternative to death penalty) and setting up a probation system

- creation of the Ombudsman Department in the reorganised Prison Board
- introduction of new Prison Rules based on U.N. and Council of Europe texts

1998: - ratification of Protocol no. 6 to the European Convention of Human Rights, definitively abolishing the death penalty

- enactment of a new Criminal Code, elaborated with the assistance of Council of Europe experts
- enactment of a new Code of Criminal Procedure, also elaborated with the assistance of experts.

It is hoped that once the necessary structures allowing more frequent recourse to the alternative sanctions to imprisonment, f.inst. probation, are fully operational, the rate of incarceration will drop considerably and will approach the rates generally found in the Nordic countries. As a preliminary objective it will be sought to reduce the number of prisoners from 4.600 (Aug. 1998) to around 2.000.

B) A new concept of law enforcement

In 1996, in connection with the transformation of the Corrections Department into the present Prison Board and with the appointment of a new Director, it was felt that the entire approach to law enforcement should be reconsidered and reassessed in the light of the prevailing political and social reform tendencies. The result was the establishment of general ideas and principles which form an outline of a strategy for the years to come. It dictates the penal and penitentiary policy, establishes criteria for determining priorities and is reflected in the daily management of the Board and the various establishments and institutions. The strategy is constantly being reevaluated, taking into account advice and suggestions made by, inter alia, the Nord-Balt Prison Reform Project and, not least, the CPT itself.

The GENERAL AIMS, as defined by the strategy, are the following:

- a) to effect the complete transition from the so-called camp system inherited from the past to an individual cell system
- b) to provide detainees with humane living and working conditions and with opportunities for acquiring an education
- c) to promote the building of new institutions and to carry out extensive repair work on existing institutions
- d) to reorganise and develop prison industries
- e) to restructure social and rehabilitative work with prisoners
- f) to overhaul the health conditions for prisoners
- g) to provide prison staff with proper working conditions and social guarantees
- h) to train professional and qualified staff members.

C) Building projects, incl. renovation of existing institutions
In this context it was decided to aim for the establishment of four different categories of prisons:

- 1) closed prisons:
for persons detained pending trial and for persons sentenced for more serious crimes to a period of imprisonment in a closed prison
- 2) open prisons:
for persons sentenced for less serious crimes to a period of imprisonment in an open prison and for persons transferred during their serving the sentence from a closed prison
- 3) juvenile prisons:
institutions with emphasis on education for young people sentenced to a period of detention in a juvenile prison
- 4) isolation camps:
for foreigners who have entered the country illegally or reside there illegally

All existing institutions have been categorised accordingly.

Right from the beginning of Estonian responsibility for the penitentiary system (1992) it was realised that the prison buildings were in a sorry state and considerable effort and resources were needed to bring them up to acceptable standards.

In many prisons repair work, either partly or extensively, was carried during the following years. Parts of Harku Prison was renovated in 1995, of Murru Prison in 1994-95 and 1998, Rummu in 1993-95; a complete overhaul was undertaken at Tallinn Prison in 1996-98 and in Parnu in 1997-98; moreover, a completely new prison is being built in Tartu and will be opened in 1999.

It is acknowledged that the main challenge for the Prison Board is to find a solution to the Central Prison in Tallinn, which is in such a state that repair or renovation would not be economically justifiable. Also renovation work must continue at other prisons, in particular at those where conditions of detention are most unsatisfactory, f. inst. at Viljandi Juvenile Prison.

In 1998 the Finnish Prison Administration organised a seminar for the Baltic countries on the construction of modern low cost prisons and on the renovation of existing structures. The Estonian Prison Board will study carefully the conclusions of this seminar and, if appropriate, in collaboration with established architectural firms, establish tentative blueprints for future projects.

Thus, with a view to providing better conditions for the detainees and the staff, the SPECIFIC AIMS of the Prison Board are to

- 1) to continue, with the resources put at its disposal, the present policy of gradual modernisation of existing institutions
- 2) to pursue actively the search for substitute solutions to the problems raised by the general state of dilapidation of the Central Prison
- 3) to promote, where necessary, the construction of new buildings.

D) Employment, work and education in prison

In the context of the Nord-Balt Prison Project and on the occasion of the Conference held in Oslo in September 1998 the Prison Administration as defined its priorities in the field of education as follows.

Vocational education

Analysis of the level of competetivity of professions taught in Estonian prisons and changing their structure according to local labour market conditions

Profound modernizing of the technical basis for vocational education, recruitment of up to date training workshops for following professions :

- welder in safety gases ;
- estate attendant ;
- burnishing and gardening ;
- garage service professions ;
- carpenter, furniture restorer ;
- construction worker ;
- electrician.

Basic/general education

Improvement of the quality of the prison school teachers

- Organizing courses eg workshops about new ways and methods in adult's education (supervisors from outside).
- creating study-VCR centres in prisons to teach general subjects by showing educational-films
- recruitment of prison libraries with contemporary textbooks and bulletins
- educating prison school teachers in other countries connected with the Nord-Balt project
- creating methods to put to practice the combined study forms/general education and vocational education and social education

- creating programmes of teaching the state language/in co-operation with NGOs and universities, institutes/
- creating computer classes with contemporary equipment

Social education

- Life skill training to improve the self-esteem, level of social skills and knowledge of prisoners
- Citizenship-studies
- Optional courses eg arts, handicrafts

The implementation of the programme will be undertaken in cooperation with the Danish Ministry of Justice.

The SPECIFIC AIMS are therefore

- a) To integrate education and work in prison into the general rehabilitation process.
- b) To provide adequate resources to the structural changes required.

E) Health in prison

The Prison Board is acutely aware that the medical facilities in the institutions under its responsibility should be improved. It is particularly concerned that it will not be in a position to deal effectively with the rapidly increasing frequency of tuberculosis in the prisons. Even though the number of HIV positive detainees is still very low, it is, in the light of the experience of other countries, to be expected that the incidence of HIV will become more acute in the future.

The Board, in consultation with the Ministry of Social Affairs and Public Health and with the representative professional organisations, is giving serious attention to the improvement of the medical facilities in the institutions. In this context they will bear in mind the recent Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prisons, the report made by the International Council of Prison Medical Services entitles "The Health of Prisoners in Estonia" and the CPT recommendations contained in its 3rd report to the Committee of Ministers of the Council of Europe.

It is to be noted that Estonia has now joined the European Social Development Fund which opens up the possibility of financing modernisation of existing facilities and of providing new up-to-date facilities at favourable conditions.

The SPECIFIC AIMS are therefore:

- 1) to define an integrated hygiene and health policy for prisoners, taking into account the overall treatment approach in the free community
- 2) to proceed to a stocktaking in all institutions of the needs for a rebuilding of the medical and hospital infrastructure
- 3) to consult with specialists on a reconstruction programme specifying layouts, costs, time schedules, etc.
- 4) to establish a comprehensive project to be submitted as soon as possible to the Social Development Fund.

F) Prison staff

The authorities will give priority to furthering a process whereby attitudes and behaviour are changed amongst prison staff. It is fully realised that it is they who have immediate and direct contact with the prisoners, they who can most effectively influence the general atmosphere and the psychological climate in the institutions and they who can administer whatever remedial treatment is given to the detainees.

At present, prison employment has low social status, a heritage from the period when the prison administration was run by and identified with the occupants. Moreover, it is not well paid.

It will be the SPECIFIC AIMS of the authorities

- 1) to improve the social prestige of the profession
- 2) to ensure that the remuneration is made attractive
- 3) to provide better training facilities.

In the latter context, the Government has reorganised the training of staff by incorporating the Staff Training Centre into the management structure of the Prison Board; it is now a sub-unit of the Personnel Department and headed by a Director of Training.

Moreover, it is intended

- a) to restrict recruitment to candidates who have an appropriate level of education
- b) to develop, in close cooperation with the Nordic Prison Administrations, basic training programmes for all levels of staff, having in mind the Recommendations of the Council of Europe on the subject; the training shall develop a common set of attitudes and values based on international legal and human rights texts concerning the handling of prisoners; a test programme is currently being conducted and will in due course be evaluated for

- relevance and efficiency
- c) to ensure, in particular, that all staff have an adequate knowledge of the Estonian language and to pursue a policy of encouragement and support to existing staff who do not possess, but wish to acquire, such knowledge
 - d) to increase the international exchanges of staff between the Estonian and the Nordic Prison Administrations and to use for this purpose the twinning arrangements (see below); in this context, language course in basic English will be arranged for prospective trainees.

G) International contacts

The authorities attach great importance to the bilateral and direct cooperation between institutions and establishments in Estonia and abroad. It is felt that by creating closer personal contacts between leaders and staff from different, but comparable prisons changes of attitudes, behaviour and motivation may be accelerated, the learning process may become more personal, pragmatic and result-oriented, the transmission of new ideas and of tested and approved social norms may be facilitated.

For these reasons, under the auspices of the Nord-Balt Prison Reform Project, the following twinning arrangements have been concluded:

- | | |
|-------------------|--|
| - Central Prison | Kronoberg Remand Prison, Stockholm, Sweden |
| - Harku Prison | Haamenlinna Prison, Finland |
| - Rummu Prison | Norrkoping Prison, Sweden |
| - Murru Prison | Herstedvester Prison, Denmark |
| - Amari Prison | Vridsl0selille Prison, Denmark |
| - Tallinn Prison | Hall Prison, Sweden |
| - Parnu Prison | Jyderup Prison, Denmark |
| - Maardu Prison | Naaragrary Prison, Finland |
| - Viljandi Prison | Ringe Prison, Denmark. |

Thus all major institutions in Estonia have found a Nordic "partner".

The SPECIFIC AIM of the Prison Board is to further implement these twinning arrangements so that the Estonian institutions can benefit to a maximum from the experience of their twinned institution, both for the purpose of improved day-to-day administration and of better contacts between staff, and inmates.

II. CONCERNING THE MENTAL HEALTH SYSTEM

SPECIAL CARE DEVELOPMENT PROGRAMME Guidelines and objectives for 1998-2000

1. The Special Care Development Programme (hereinafter: the Programme) aims at bettering the quality of life of residents of special care homes and/or persons who need to be in special care. The implementation of the Programme presupposes optimising and developing the network of rehabilitation services and promoting the quality of special care and rehabilitation services.

2. The target groups of the Programme are:

- Persons with severe and long-lasting mental disorders;
- Persons with moderate, deep and severe mental disabilities;
- Persons with complex mental disabilities or people with mental disorders.

3. The Programme includes the whole Republic and is supervised and co-ordinated by the Ministry of Social Affairs.

4. The necessity of the Programme derives from the fact that the current system of special care and the network of special care homes in the Republic of Estonia was designed during the Soviet period according to former Soviet principles, and from the fact that after Estonia's re-independence the development and regulation of the special care network has been incomplete and lacking in national supervision. The present situation of the current special care system can be characterised as follows:

- Special care homes are overcrowded;
- Living conditions in most special care homes are unsatisfactory;
- There are great differences at the regional level in the development of special care and special care homes, as well as in the quality and availability of corresponding services;
- Special care services are inaccessible for persons who live on their own but need special care services to a certain extent;
- There are persons living in special care homes who should be capable of taking care of themselves;
- Persons in special care homes have limited access to general public services;
- The possibilities of returning to independent life are limited for persons placed in special care homes;
- There are problems with guaranteeing human rights to persons in special care homes.

5. The principal objective of the Programme is the improvement of the living conditions of persons in special care homes and/or persons who need special care.

6. The principal tasks of the Programme deriving from the objective are:

- Reducing the need to place persons in special care homes;
- Improving the living conditions of persons in special care homes;
- Reducing the number of persons in institutional care;
- Maximum provision of general public services for persons in special care homes and/or for persons who need institutional care;
- Increasing the number of different types of special care services and improving the accessibility of such services;
- Reorganising special care according to rehabilitation principles;
- Guaranteeing equal opportunities in society to people belonging to target groups;
- Guaranteeing and safeguarding human rights to persons who need special care.

7. In the process of improving the special care system and realising the Programme, the following principles should be taken into account:

- The special care system must meet the needs of a concrete person;
- The special care system must be based on the philosophical principles of rehabilitation and it should enable a person to return to independent life;
- The financing of special care must depend on the condition and the specific needs of a particular person, not on the existence of the institution, that is, money must be used for the benefit of the person;
- The special care system should encourage living in ordinary (natural) environment as long and as much as possible;
- The special care system should be comprehensive, combine the practice of health care and special care sectors, and it must not depend on the status, ownership for, etc. of the special care service worker.

8. Short-term guidelines for the development of special care:

- Correlate any rearrangements of special care homes and the special care system with general public services;
- Methodically reduce the number of persons in institutional care (by at least 10% a year), simultaneously increasing the number of persons in outpatient care;
- Terminate practice in buildings unsuited for special care (unsuitable rooms, economic difficulties, etc.), remove special care homes first of all from old mansions, considering each institution/building separately;
- In co-operation with the Ministry of Education, county and local governments and special care homes, find buildings discharged or partially discharged (comparatively small houses, halls of residence, etc.) in order to set up smaller housing units;
- Incorporate the existent social welfare institutions (special care homes and general care homes) within unified administrative structures so that the minimal number of persons receiving services from the institutions would be 150, and not increase the number of care homes;
- Divide special care homes and their wards into categories (analogous to hospitals) depending on clients and the level of services (qualifications of personnel, rooms, services, activities, etc.);
- Devise an optimal network of special care homes or their wards (the location and number of institutions and beds in them);
- Promote providing special care services for persons who live in ordinary conditions but who need special care;
- Develop a comprehensive national advanced training system for special care workers;
- Devise the management structure of the special care system based on 4-5 regions;
- In financial matters prefer activities that comply with the principles of the Programme.

9. The executors and the co-ordination of the Programme:

- The Programme pertains to the field of responsibility of the vice-chancellor in the social field (Mr Valdeko Paavel);
- The immediate executor and co-ordinator is the Social Development Department (Deputy Head Mrs Aive Sarjas);
- The advisory authority in relation to the Programme is a special working group set up according to the Directive of the Minister No. 44 of 9 February 1998;
- The departments of the Ministry (Health Care Dept., Social Protection Dept., Administrative Dept., Finance and Budget Dept.) are to participate in the realisation of the Programme within their respective fields of responsibility;
- The social and health care departments of county governments are to supervise and co-ordinate the realisation of the Programme in their respective counties and regions.

10. The Programme is to be revised annually during the 1st quarter in order to make any necessary corrections and devise the action plan for the following three years (for 1999-2001, 2001-2003, etc.).

SPECIAL CARE DEVELOPMENT PROGRAMME
Action plan for 1998

Activity	Outline	The term
Devising an evaluation strategy for special care	Devise a single national evaluation strategy to estimate the need for special care services that provides the basis for designing a support service system of various degrees. The strategy will be confirmed by a directive of the Minister and applied as the ground for establishing the conditions and order of placing a person in special care.	15.09.98
Estimating the need for care of all persons in special care homes on the basis of the established evaluation strategy	Have an overview of the factual situation and needs of persons in special care homes, relying on which further activities could be planned.	01.12.98
Designing a new system of expertise and of estimating the need for special care	Organise the work of the new expertise and evaluation system in co-operation with the Psychiatrists Association. The system is based on the principled plan drawn up by the working group formed in order to standardise the work of expert commissions necessary for implementing the <i>State Pensions Act and the Law on Disability Benefits</i> . The new system must comply with the conditions and the order of placing persons in special care.	31.12.98
Training case-managers	Provide new working places to ensure general public services for persons who need or are in special care, relying on the principles of the community mental health worker or case-manager in countries with a developed mental health services system. The speciality profile and a	15.10.98

	sample job description Training	31.12.98
Improving and clarifying the list of services	According to the designing of the evaluation system, switch to the 2-4-degree list of services proceeding from persons' need for support.	01.11.98
Working out the basic plan of the price-list and financing of services	In relation to the list of services, work out the basic plan of the price-list and financing of services.	31.12.98
Establishing requirements for the work of special care homes	In addition to the official building, safety, etc. requirements, establish other requirements (incl. the order of making and settling complaints, representation of consumers, the charter of consumers' rights, review of the personnel and the CVs of the managerial staff and main specialists) to be met by 1 Jan 1999 at the latest.	31.12.98
Devising the action plan for 1999	Work out the 1999 action plan of special care development programme.	31.12.98

SPECIAL CARE DEVELOPMENT PLAN
The schedule of the 1998 action plan

Activities	Aug.	Sep.	Oct.	Nov.	Dec.
Devising an evaluation strategy for special care	→				
Estimating the need for care of all persons in special care homes on the basis of the established evaluation strategy		→			
Designing a new system of expertise and of estimating the need for special care	→				
Training case-managers The speciality profile and a sample job description Training	→				
Improving and clarifying the list of services	→				
Working out the basic plan of the price-list and financing of services	→				
Establishing requirements for the work of special carehomes	→				
Devising the action plan for 1999			→		

2. PARTICULAR OBSERVATIONS ON THE CPT RECOMMENDATIONS
(supplementary to those contained in the Interim Report)

A. Police Establishments

1. Preliminary Remarks

a. requests for information:

I-1 Clarification as to the legal value of statements made to the criminal police prior to the first interrogation by an investigator (paragraph 10)

It is necessary to make a distinction between a witness and a suspect. In accordance with paragraph 130-1 of the Criminal Procedure Code an investigator has the right to clear up the point : if the one or the other knows the facts of importance for the given criminal case. Just for this purpose these persons are invited to the police and interviewed. That is clarification for the statements made prior to the first interrogation. If during the interview it becomes clear that there is a ground to suspect the interviewed person of having committed a crime, a written order is drawn up acknowledging the person being a suspect. This way is defined the legal status of a person later being interrogated either as a suspect or a witness.

I-2 On the changes made in the course of 1998 to the structures of the National Police Board (paragraph 14)

The actual changes in the structure of the National Police which were made during the last period are the following : The number of structural units of the Police Board was optimised to ten, spheres of action were specified, level of competence and responsibility of the heads of departments were enhanced. This established a firm legal basis for the Police Board, who manages, coordinates and analyses the work of the police institutions. Reorganisation of work served a main purpose :to achieve greater efficiency of police work. To achieve that aim it was necessary to rearrange the resources and forces, taking into consideration the present number and quality of personnel. Another aim was to specify the functions of national police institutions and police prefectures. Two police schools in Tallinn and Paikuse were merged since it was not reasonable to continue training police officials in two separate police schools.

The work of the Police Prefecture of Tallinn was also reorganised. Our current goal is to reduce the number of police prefectures, as 17 are too many for Estonia. Three national police institutions have been established: Central Criminal Police, Security Police and Forensic Science Centre. The field Police Bureau was merged with the Law Enforcement Department ; functions of the Traffic Police Bureau have been given over to police prefectures ; the Police Information Centre and Police Communication Support Centre have been merged with the Information and Communication Department; Material Supply Centre and the Police Transport Centre have been merged with

the Material Management Department of the Police Board. The Central Investigation Bureau has been merged with the Central Criminal Police. This rearrangement helps to solve criminal, cases more efficiently and expedites pre-court procedures.

2. Torture and other forms of physical ill-treatment

a. requests for information:

I-3 On the number, in respect of 1996 and 1997, of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result (paragraph 22)

More attention is paid to internal control. The number of the personnel of the Internal Control Department of the Police Board has been increased, the level of their responsibility being enhanced, which has led to better disciplinary control and detection of breaches of law and professional conduct regulations. The number of complaints of ill-treatment made against police officers in police detention houses during last three years were the following :

in 1996 - 20 complaints, of which there were 2 disciplinary proceedings .initiated against the police officers ;

in 1997 - 31 complaints, of which there was initiated 1 criminal proceeding, where the police officer has been acquitted by the court; there were 6 disciplinary proceedings: where 2 police officers were punished by a disciplinary order.

in 1998 - 14 complaints, of which there was initiated 1 disciplinary proceeding against a police officer.

I-5 On the administrative procedure applied in cases involving allegations of ill-treatment by the police, including as regards the safeguards which ensure their objectivity (paragraph 22)

When the police division responsible for a police detention house, gets an allegation of ill-treatment, each fact is considered by a disciplinary unit in a form of disciplinary investigation which defines the circumstances of an eventual offence. On the basis of the results of investigation the extent of responsibility for the fact of ill-treatment and the required disciplinary punishment is determined.

b. recommendations

R-1 A very high priority should be given to professional training for police officers of all ranks and categories, having regard to the remarks made by the CPT, and experts not belonging to the police force should be involved in this training (paragraph 19)

One of the goals of changes made within the police forces is to improve the quality of the police by improving the quality of police training. The first and the second level police training is given at present at the police School. A higher level training is given at the National Academy of Public Defense. More attention is paid to supplementary training which is provided as by Estonian so as by international police educational institutions. Last year 428 police officers got supplementary police training. In May 1998 a joint conference with our cooperation partners from other countries was held. The purpose of the conference was to improve the coordination of international training to avoid overlapping and to improve efficiency of international training assistance projects.

Use of violence as a method for combating the crime for acquiring valuable evidence has, as in other European countries, an occasional character. It has been always considered in the Estonian police as a fact being subject to criminal and administrative responsibility. In accordance with paragraph 161-1 of the Criminal Code (official position abuse) any act of illegal use of firearms, use of violence or torture or ill-treatment by an official or a person on duty is criminally punished by imprisonment up to 6 years. Of course, a high priority is given to professional training for police officers of all ranks and categories. Estonian State Defence Academy is planning in 1998 a special police training course « The Human Rights and the Police » which is meant for mid-level managing police officers.

In the framework of cooperation with the Council of Europe and our other countries cooperation partners the Police Board is planning a few advanced training seminars on human rights and police ethics.

R-2 An aptitude for interpersonal communication should be a major factor in the process of recruiting police officers and, during the training of such officers, considerable emphasis should be placed on acquiring and developing interpersonal communication skills (paragraph 19)

The same requirements are set up for police cadets at the National Police School, which trains police service recruits within the basic training course, the program of which includes subjects of Human Rights and Police Ethics, and an aptitude for interpersonal communication is taken into account when selecting police school students during the entrance tests.

R-3 The relevant national authorities as well as senior police officers should make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely (paragraph 20)

The reply concerning this recommendation overlaps at large with the previous one. The State authorities as well as the top management of the police have always condemned facts when police officers treated inmates in an inhuman or humiliating way. Each police officer does know well that ill-treatment, use of violence or humiliating attitude towards the persons being in the custody of the police is not acceptable and legally prohibited.

R-4 All criminal subjects taken into police custody should be brought promptly before a judge (paragraph 21)

According to part 1 of paragraph 35-1 of the Criminal Procedure Code (Duties and Rights of suspects, convicts and persons under criminal prosecution) : « A suspect has the right to know what he is suspected of, to have a lawyer and to meet him in no other persons' presence or having no restrictions in the number and duration of the meetings. He has the right to know that all his statements can be used against him. A suspect has the right to make statements or to refrain from making them. He also has the right to make recusations, allegations or applications as well as to attend court while considering the issues concerning his being taken into the custody or prolongation of the term of being in the custody of the police. With the permission of the investigator a suspect may participate in investigative proceedings. »

R-5 Whenever a judge receives an allegation of ill-treatment by the police or observes that a criminal suspect brought before him may have been a victim of ill-treatment, he should immediately request a medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor (paragraph 21)

Observance of the law during the criminal investigative proceedings is supervised by the Prosecutor's Office in conformity with the Prosecutor's Office Act, and the Criminal Procedure Code (CrPrCd, paragraph 120). Thus a person in the custody of the police always has a real opportunity to turn to the prosecutor or to the judge with an allegation to defend his rights, bringing the matter to the attention of the prosecutor.

R-6 The return of prisoners to police premises should require the express authorisation of the competent judicial authority (paragraph 23)

The carrying out of investigative proceedings concerning a defendant being in the custody of the police and already committed to prison usually and mainly takes place in the prison. However there are some investigative proceedings which cannot be performed at the place of detention (suspect's testimony connected with the crime

scene or other concrete circumstances, Criminal Procedure Code, paragraph 153-1); in some cases, in the procedures of presenting the suspect for identification - Criminal Procedure Code, paragraph 137, etc.). Each investigative proceedings' location is fixed in the records and this is unlikely that the prisoner's transfer from the prison to the police premises or elsewhere remains unfixed or stays without a respective official authorisation.

R-7 In respect of every occasion on which inmates are removed from prison at the request of an investigator, a formal record should be kept of the reason for their removal and of all measures taken during their presence on police premises (paragraph 23)

See the previous point.

c. comments

C-1 Further questioning of persons committed to prison might preferably take place in prison rather than on police premises (paragraph 23)

As we have already mentioned, questioning of persons committed to prison usually and mostly takes place in prison.

3. Conditions of detention

a. requests for information

I-6 On the issue of the unsuitability of existing police arrest house facilities for prolonged periods of detention (paragraph 40)

The first stage of the Tartu Arrest House's new building was planned to be completed by the end of October 1998, however, due to some changes which have been made in the project of a new building, the time of its completing has been shifted onto the second half of 1999. Old Tartu arrest house has been closed. Detainees of the Tartu area are kept in arrest houses of the neighboring police prefecture arrest houses. Periodically, subject to the current situation, two cells of sobering up facility are used time to time for police custody purposes as provisional (up to 48 hours) detention cells.

A new Viljandi arrest house was completed in April 1998 and became operational in July 1998.

In the nearest future Tallinn Arrest Houses No.1 and No. 2 will be unified in the building of former premises of the Internal Security Operations Regiment. There will be built up a new Arrest House as per modern requirements. Projecting of new construction soon will be started. Its cost will be 12.5 million Estonian kroons.

b. recommendations

R-8 Immediate steps should be taken to ensure that all persons detained in police arrest houses should be provided with a mattress, blankets and sheets which are cleaned at appropriate intervals (paragraph 39)

All police arrest houses are provided with mattresses. There still are some problems with blankets and sheets, since there is some limitations of the budget for purchasing a complete number. A recently completed new Viljandi arrest house is fully supplied with all needed facilities.

R-9 Immediate steps should be taken to ensure that all persons detained in a police arrest house should have the necessary basic hygiene products at their disposal (paragraph 39)

All efforts are undertaken to supply the arrest houses with necessary hygiene products. However, to supply soap, toothpaste, towels and toilet paper to the arrest houses at the moment is not possible due to the budget limitation. In some arrest houses there is a limited supply of soap. However, supply of detainees with hygiene sets is not yet possible.

R-10 Immediate steps should be taken to ensure that all persons detained in a police arrest house should be allowed to take a hot shower at least once a week (paragraph 39)

In the police arrest houses of 9 County and City Police Prefectures (of 17) which have shower facilities the inmates can use that once a week. In others with no shower facilities, there is no possibility to do that. Using some public shower facilities outside arrest houses is excluded because of safeguarding problems. In these police arrest houses the inmates are not kept for longer than 2-3 days and further are transferred to a regional pre-detention facility or a prison. In future we are trying to solve the problem step by step, equipping arrest houses at least with minimal possibilities to ensure the inmate washing or showering facilities.

R-11 Immediate steps should be taken to ensure that all persons detained in a police arrest house should receive the necessary materials to maintain their cells in a clean and hygienic state (paragraph 39)

Police arrest houses receive to some extent materials to maintain the cells in a clean state within the limits of the budgeting.

R-12 Immediate steps should be taken to improve cell lighting in arrest houses and to verify that cell ventilation and heating are adequate (paragraph 39)

Measure are taken to improve arrest house lighting, ventilation and heating. The radical improvement of these conditions can be achieved during renovation of the present old-type detention

facilities or building new ones. These problems have been solved in a new Viljandi arrest house.

R-13 Immediate steps should be taken to increase substantially the amount of food provided to persons detained in arrest houses and to ensure that they have ready access to drinking water (paragraph 39)

At present the amount of food provided to persons detained in arrest houses has been substantially increased. It was different in different county police prefectures. In 1997 an average sum of money per a detainee food was from 13.7 Estonian kroons a day in Võru County up to 19.0 kroons a day in the Tallinn arrest house. In 1998 by the order of the Director General in all county arrest houses an average sum a day per a detainee was about 19.0 kroons, in some places being even higher.

R-14 Immediate steps should be taken to ensure that arrest houses possess a stock of appropriate reading matter for distribution to detained persons (paragraph 39)

In comparison with the previous period detainees in the arrest houses get newspapers and magazines from those which gets the police prefecture on the basis of a regular subscription. In future police prefectures will subscribe more newspapers and other press issues taking into account the needs of the arrest house inmates.

R-15 Immediate steps should be taken to review health care cover in arrest houses, taking into consideration the remarks made in the CPT Report (paragraph 39)

All police prefecture arrest houses are covered with health care and have medical care services. Larger police arrest houses (Tallinn, Narva, Pärnu) have permanent health care service by local medical staff. In smaller arrest houses the health care service is performed by local area urgent public health care squads. Establishing a permanent local health care service and providing them necessary medicine and other health care materials for all county and city police prefecture arrest houses depends to a great extent : on the financial possibilities of each prefecture.

R-16 The possibility of offering outdoor exercise to persons detained in police arrest houses should be examined as a matter of urgency (paragraph 39)

According to the Executive Proceedings Code paragraph 85, the conditions for persons punished in administrative or criminal order (arrest) in a temporary detention place, no outdoor exercise facilities are foreseen. The same is valid for persons in pre-detention. The Ministry of the Internal Affairs is trying to take efforts to harmonise the respective legal acts with the requirements of the European Union. Then a general order in the arrest houses will be changed.

R-17 The recommendations listed above under R-8 to R-16 should apply mutatis mutandis to the detention facilities at Harju Police District Headquarters (paragraph 41)

Of course the recommendations of provisions R-8 to R-16 with respective alterations will be applied to the detention facility at the Harju County Prefecture Headquarters. An appropriate study and application measures are under consideration.

R-18 Anyone detained for an extended period at the Harju Police District Headquarters to be held in one of the detention facility's larger cells should be provided with a platform on which it is possible to lie down (paragraph 41)

See the previous point.

R-19 Steps should be taken to remedy the shortcomings identified in the cells at Elva and Lasnamäe Police Stations; in particular, anyone held within them overnight should be provided with a mattress (paragraph 42)

This requirement has been already met.

R-20 Conditions of detention in all police stations in Estonia should be reviewed, having regard in the criteria laid down in the CPT Report (paragraph 42)

The Estonian Police Board is working at implementation of the CPT recommendations and is ready to amend the conditions of; detention in all police prefecture arrest houses, however that needs additional material means and funding. The Ministry of the Internal Affairs tries to get additional funding for the budget of the Police Board for the years 1999 and 2000 to improve the detaining conditions in accordance with the principles of the Council of Europe.

4. Safeguards against the ill-treatment of detained persons

a. requests for information

I-7 On the establishment of an ombudsman in Estonia, including on any powers concerning the supervision of conditions and the treatment of persons deprived of their liberty, which it is envisaged to give to the ombudsman (paragraph 59)

At present a question on establishment of a position of ombudsman including function of supervising of conditions and treatment of persons deprived of the liberty is under consideration at the Ministry of Justice. Since so far there were no legal acts in Estonia, which determine the place and the role of an ombudsman in the law enforcement structure. It would be an eventual initiative of the Ministry to make a proposition on working out a respective national legal act or to implement a respective international act.

b. recommendations

R-21 Measures should be taken to ensure that persons apprehended by the police are entitled, as from the outset of their custody, to inform a relative or a third party of their choice of their detention by the police (paragraph 46)

The necessity of informing a relative or a third party about detention of a person taken into the custody of the police and a duty of the police who detained the person is specified by provisions of the Criminal Procedure Code. That is always done by the request of the detainee or by the police officer executing the detention.

R-22 Measures should be taken to ensure that persons apprehended by the police are entitled, as from the outset of their custody, to have access to a lawyer (paragraph 46)

A person taken into the custody of the police has the right of access to a lawyer and this right is ensured by the Criminal Procedure Code, paragraph 36-1, which specifies the participation of a lawyer in the criminal procedure. In conformity with the Code a suspect, a convict or any prosecuted person has the right to have a lawyer whom he chooses from the persons allowed to act as a lawyer by the law. A lawyer also can be chosen by a person by request of the defendant.

Since a lawyer's participation in the investigative proceedings is obligatory and a defendant having no lawyer demands a lawyer's presence at the proceedings, the lawyer is assigned by an investigator.

A person whom a lawyer has been assigned to, has no right to refuse his defense except on application for his replacement within the order prescribed by law.

R-23 The possibility exceptionally to delay the exercise of the right mentioned under R-21 above should be more closely circumscribed, made subject to appropriate safeguards and strictly limited in time (paragraph 47)

According to the Criminal Procedure Code, paragraph 102, part 3, a suspect taken into the custody of the police has the right to submit complaints on the activities of the investigator, to give clarifications and or submit applications. A suspect is given the right to inform at least one relative about his being detained through the investigator, if that does not affect the investigative proceedings.

If a chosen lawyer can not fulfill his defense duties within defined time-limits or by some reasons cannot participate in investigative proceedings during 5 days, the investigator or the judge has to select another lawyer for replacement.

R-24 A doctor should be called without delay whenever a person in police custody requests a medical examination and police officers should not seek to vet such requests (paragraph: 50)

If a person, being in the custody of the police requests a medical examination, no obstacles to that can, be made. However we believe that police officers should also require that proceeding from the actual state of health of the defendant.

R-25 All medical examinations of persons in police custody should be conducted out of the hearing and -unless the doctor concerned expressly requests otherwise in a given case - out of the sight of the police officers (paragraph 50)

Medical examination of persons in police custody shall take place out of the sight of the police officers if a doctor finds it necessary.

R-26 A person taken into police custody should have the right to be examined, if he so wishes, by a doctor of his own choice, in addition to the medical examination carried out by the doctor called by the police authorities (paragraph 51)

What concerns meetings of a detainee with a doctor he chooses, there will arise a problem concerning payment of the medical services, particularly if a medical expert or doctor is chosen from abroad. Solution of such question might be more than problematic.

R-27 A form setting out in a straightforward manner the rights of persons taken into police custody should be systematically given to such persons at the very outset of their deprivation of liberty and the form should be available in an appropriate range of languages (paragraph 52)

All persons taken in the police custody must be fully informed about their rights according to paragraph 35-1 of the Criminal Procedure Code, from the moment of their being in custody. That is done by the police officers. The law also requires that all proceedings be performed in the native language of the person ensuring an appropriate interpreter.

R-28 A code of conduct for police interviews should be drawn up (paragraph 54)

The art of questioning depends and is based mainly on the practical experience of the police officer. However the main part of the art and the skill depends on professional training and the principles of police ethics.

R-29 Steps should be taken to ensure that whenever a person is detained in a police establishment, for whatever reason or length of time, the fact of his detention is recorded without delay (paragraph 55)

Facts discovered by the Commission concerning delay in records made immediately after arrest of persons were a result of neglecting acting regulations of the police job. These facts are considered as a low professional culture examples and are punished in a disciplinary order. To improve that and to exclude those facts more severe control measures should be used.

R-30 The relevant prosecuting/judicial authorities throughout the country should be encouraged to carry out regular and unannounced visits to places where persons are detained by the police (paragraph 58)

One of the supervision duties of the prosecutor's office is to carry out regular and unexpected visits to the police detention places with an aim to check the actual situation with the detainees and the observance of the requirements of the law. This supervisory activity is regulated by law.

B. Prisons

1. Preliminary Remarks

- a. requests for information (para 67)

See reply to R-2

- b. Recommendations

R-1 (Par 66). In addition to circumstances outlined in the interim report it can now be stated that the cooperation between the Prison Board and the Canadian company Strongbar has increased considerably. High officials of Strongbar met the General Director of Prison Board in November and agreements on future cooperation and timetables were made. It has been decided to conclude additional cooperation agreements at the end of this year or in the beginning of the next one, and when financed by Strongbar the production at Ämari Prison could be started already next year. It is agreed that Strongbar brings its own equipment to the prison and guarantees the pertinent training of inmates. The marketing of the production would also be among the obligations of Strongbar.

R-2 (Par 67). Pursuant to the bill of the new Confinement Code (which should enter into force on January 1, 2000), now completed and sent to the Government of the Republic, the whole section regarding the prison service is re-evaluated and brought on a new basis. According to the bill the prison service shall be based on a career system.

Prison officials are divided into various official ranks and degrees and the promotion to higher ranks or degrees is possible only after assessment by the attestation committee and after service for some years. Each service rank and degree has its own salary rate. In addition to the above stated, greater emphasis in the preparatory service of prison officials has now been laid on practical aspects, and during the time of learning the payment of grant to prison official candidates has been provided for. Social guarantees to prison officials have also been reviewed and these have been included in the bill on legal basis (i.e. free medical screening). Such system should motivate the inflow of more qualified personnel and guarantee stable and professional work in the future.

c. Comments

C-1 (Par 65). As of 01.12.1998, 4296 inmates were kept in Estonian prisons, of whom 2989 were convicts and 1263 were kept on remand. In connection with the confinement law reform the bill of the Confinement Code has now been worked out, and includes a system of prison alternatives, absent from the currently valid Criminal Code. The bill also provides for community service, the deferral of punishment, the deferral of conviction, all of which amount to alternatives to imprisonment which is one of the most applicable means of punishment in criminal cases at present. The Criminal Probation Act, entered in force on May 1, 1998, is now implemented in everyday life, criminal probation departments have been formed and criminal probation officials have been assigned the probationers. The system is still new and lacks experience, but is operational. The premature release of inmates on probation can take place, provided that they stay under effective supervision during their probation time, which must be guaranteed by the criminal probation system. This system, being one possible means for the resocialization and motivation of inmates, will probably become more applicable in the future. It has been planned to train yet other teams of officials during 1999, thus adjusting both the load and quality of their work.

Summing up we can say, that after the adoption of legal acts serving as basis for the punishment reform (the enactment of punishment code and confinement act), their synergetic influence should result in the widening of the legal basis of confinement alternatives, thus creating a precondition for the reduction of the number of individuals punished with actual confinement.

On August 12 the renovated living block of the Pärnu Prison, the construction of which started in February this year and which had stayed empty till that very moment, was inaugurated.

The existing prison building, erected at the turn of the century, was reconstructed. The building itself is a two-storey brick building with three larger and three smaller rooms used as disciplinary cells (kartser) on both floors. The building was last used as accommodation for staff. By the reconstruction the building was given a modern solution in accordance with valid requirements.

Single, double and quadruple cells were built (the building has 11 quadruple, 2 double and 4 single cells for the total number of 52 inmates). The average floor space of the quadruple room is 14 m², that makes up 3,5 m² for one person (the minimum requirement is 2,5 m²) .

Each cell is equipped with sanitary installations separated by partition walls, the taps have running hot and cold water. The formerly unused attic is built into utility rooms for the staff i.e shower rooms and dressing rooms for men and women.

Only the supporting walls were left of the initial building. The rest of the structures are built anew. Additionally 4 walking quarters surrounded by the edifice have been built. The building's main source of heating is floor heating. Ventilation - mechanical inflow and outflow system. The building is equipped with necessary communication and signaling systems for the guarding team, it has TV-reception contacts in cells and an information system.

2. Torture and other forms of ill-treatment

a. request for information

I-1 (Par 96) No additional information regarding the matter.

I-2 (Par 72) No additional information regarding the matter.

b. recommendations

R-3 (Par 70). The concept of training referred to in the preliminary report has been implemented by now and pursuant to it an experimental group of 17 members started their training in September 1998. They are provided with one-year training at the Prison Board training centre with a considerable part of the training programme concentrating on communication with inmates, on psychology and professional ethics. We are of the opinion that the situation as to training and instruction (including communication training) is about to improve in the nearest future and members of the said experimental group should be the first ones to put their newly acquired knowledge into practice, starting their service in September 1999. If such form of training proves rational, all junior prison officials will pass such training in the future, thus considerably raising their level of preparation and knowledge.

R-4 (Par 71). No additional information regarding the matter.

3. The Central Prison (and Tallinn Prison)

1) *the remand population*

a. requests for information

I-3 (Par 78). The Estonian Prison Board is still of the opinion that the Central Prison should be closed and not used as prison, mainly because the building is unfit for the purpose. Renovation being impossible it will be closed.

A precondition is the completion of the Tartu Prison, the building of which has been approved by the Government of the Republic by now. State procurement bid has been announced for its, construction of Tartu Prison and at the moment the best bidder is being selected, after which individual contracts can be concluded and various financing methods considered.

b. recommendations

R-5 (Par 79 and 80). No additional information regarding the matter.

2) *prisoners sentenced (to death or) life imprisonment*

b. recommendations

R-6 (Par 85&S6). No additional information regarding the matter.

3) *the sentenced prisoners workforce*

c. comments

C-2 (Par 87). No additional information regarding the matter.

4) *general health care service in Central Prison*

a. requests for information

I-4 (Par 100 and 102). From 1998 hypersensitivity of tuberculosis patients to antituberculosis drugs is established at the Microbiology Laboratory of the Tallinn Kivimäe Pulmonary Clinic, the only specialized medical establishment of that kind in North Estonia. All pulmonic pictures of and samples from inmates with initial tuberculosis infection diagnosis (given at the Central Prison Hospital) are examined by a group of doctors of the hospital stated above in order to avoid disparity in diagnoses.

The intra-prison spread of tuberculosis has not increased, problems are created by persons arriving to confinement establishments from the outside, being infected with tuberculosis beforehand. In 1998 the number of such persons (as compared to 1997) has increased ca 100%. In 1997 the number of such persons was 15, on December 1, 1998 their number was 28.

We deem it necessary to underline, that from 1995 no HIV positive inmates have been detected during testing.

b. recommendations

R-7 (Par 89}. We may state today, that all prisons are equipped with dental equipment of required level, thus guaranteeing proper dental care to inmates. In October 1998 new dental equipment was bought to the Viljandi Prison. Next spring it has been planned to buy the same for Pärnu Prison.

R-8 (Par 90, 92, 95, 97, 99}. No additional information regarding the matter.

R-9 (Par 98 and 101). The Central Prison Hospital has received a limited number of information booklets (hepatitis, AIDS) from general outpatient hospitals of the town, these being insufficient in number for distribution to all inmates and prison officials. This issue is being dealt with and is hopefully solved in the nearest future.

5) *Prison Hospital at the Central Prison*

a. requests for information

I-5 (Par 105). According to current common practice the inmates are given medical treatment on two levels, i.e. medical treatment on the spot and in more complicated cases medical treatment at the Central Prison Hospital. Pursuant to the above mentioned Confinement Code bill, the inmate treatment costs should be covered from the state health insurance budget, thus improving the opportunities of inmates to receive specialized treatment on a general basis. In addition to the above stated the bill also requires the appointment of a qualified doctor to each prison working on regular basis. The preliminary detailed planning of the Tallinn Prison is completed by now and it envisages the building of a new hospital with 180 places on the grounds of the Tallinn Prison. The planning outlines a section also for a psychiatric unit.

b. recommendations

R-8 (Par 109). As already referred to in reply (I-5), a hospital with 180 places, complying to all requirements, is planned to be built on the grounds of the Tallinn Prison. In order to reduce the occupancy level at the Central Prison Hospital it will be extended in the beginning of 1999 by the former quarantine section so that the hospital will so get extra 50 beds. As of 02.12. 1998, 124 inmates stayed at the Central Prison Hospital (incl. 52 tuberculosis patients). The patients staying at the prison hospital are allowed to visit the library. The extension of the hospital will also improve the possibilities for inmates to move around. Doors of the wards are kept locked as the inmates of various categories (remand prisoners, convicted inmates etc.) staying at the hospital; must, pursuant to the law be kept separately. Medical; personnel stays at the hospital 24; hours and have the possibility to call them.

4. Other issues arising from visits to the Central and Tallinn Prison

a. requests for information

1-6 (Par 122). No additional information regarding the matter.

b. recommendations

R-9 (Par 111). A substantial amendment concerns the Amending and Supplementing Act of the Law Enforcement Procedure Code, the Prosecution Act, the Criminal Procedure Code and the Administrative Court Procedure Code, that took effect on July 16, 1998, pursuant to which the formerly valid rules on correspondence and telephone calls by inmates were changed.

As a result of these amendments inmates are now entitled to receive and send an unlimited number of letters and make use of the public telephone of the prison establishment, if technical conditions are supporting it. The letters sent and received by inmates are opened for reasons of security and safety in the presence of the inmate, taking away prohibited objects. The official performing the procedure is, contrary to the formerly valid stipulations, prohibited to check the contents of letters. The formerly applicable censorship over correspondence and telephone calls is abolished.

By these amendments it was stipulated, that the contents of the correspondence, post parcels and the messages forwarded by telephone, telegraph and other generally used technical communication channels by inmates can only be checked pursuant to grounds and procedures stipulated in the Persecution Act with the authorisation by a court. In short, the General Director of the Prison Board must apply for an authorisation from the administrative court for the carrying out of such measures in respect of a specific inmate, demonstrating the need for doing so.

Those kept on remand have generally the same rights, only with slight differences. They shall be entitled to correspondence, post parcels and the usage of telephone, telegraph and other generally used technical communication channels as well as meetings with persons from outside the prison according to procedures established by the internal regulations of the confinement establishment. This right can only be limited by a legal order of an investigator, a prosecutor or a court, if the criminal case is pending before a court, (according to previously valid principles correspondence and meetings were prohibited as a rule and could take place with permission from the above stated institutions only). The contents of messages forwarded by those on remand may be checked pursuant to grounds and procedures stipulated by the Prosecution Act only.

R-10 (Par 112). No additional information regarding the matter.

R-11 (Par 116). A special information booklet for inmates has been worked out at the Central Prison, outlining their basic rights and obligations and the regime conditions. This informative booklet is compiled in the Estonian and Russian languages.

In the remand confinement blocks of the Tallinn Prison information regarding the rights and obligations of inmates is being regularly transmitted through the radio transmission network. The prison library has got and makes available pertinent legal acts and if necessary the inmate can have them brought into his cell with the help of a prison official - contact person.

R-12 (Par 118). The small-size disciplinary cells (kartserid) in the 7. department of the Central Prison have been closed by now. The material conditions in other cells shall be improved within the limits of existing possibilities.

The occupancy level in disciplinary cells of the Tallinn Prison has improved. At the moment inmates are kept at disciplinary cells separately.

R-13 (Par 119 - 121). No additional information regarding the matter.

R-14 (Par 124). Pursuant to valid legal acts the administration is obliged to supply inmates with writing paper and pens for the writing of applications and complaints to state institutions, public organizations and officials. This right is also granted to inmates kept in disciplinary cells. At the Central and Tallinn Prisons the said requirements have been fulfilled by administration and the rights of inmates are respected.

R-15 (Par 125). Apart from the Prison Board legal supervision in prisons is also carried out by an independent official-prosecutor. So the old system is still valid, entitling the prosecutor to check at any time and without preconditions the implementation of legal acts by confinement establishments, and get acquainted with documents serving as grounds for the arrest and detention of a person at the confinement establishment. In addition the prosecutor is also entitled to immediately release a person being confined without the existence of pertinent legal grounds and interview persons kept in confinement or receive their oral or written explanations.

c. comments

C-3 (Par 113). Short-term meetings at the Central and Tallinn Prison still take place in rooms divided by glass wall by means of telephone conversations. We deem this necessary for security reasons and see no opportunity to abandon this practice in the nearest future.

C-4 (Par 114). See reply R-9. As the previously valid censorship over correspondence of inmates is abolished (and thus also the need to read through all letters and get acquainted with their contents), impediments and delays in the forwarding of correspondence from prison have also reduced.

C-5 (Par 128 and 129). At the moment the internees are kept at the Tallinn and Harku Prisons. The Law on access to the territory has also been adopted, regulating in detail the grounds and procedures of confinement of the deportees (above referred to as internees). A resolution has been adopted that in future the deportation camp shall be run by the Ministry of Internal Affairs as an independent establishment. Until the completion of the said camp deportees shall be placed into pertinent separated departments of prisons or police arrest houses pursuant to an administrative court resolution, where they shall be subject to remand confinement regime conditions. It has been planned to organize a small library at the Tallinn Prison for the deportees in order to offer them wider scope of useful action and reading opportunities.

5. Viljandi Juvenile Prison

a. requests for information

I-7 (Par 137). The gym is in use at the moment and it has been planned to reconstruct it the next year, thus guaranteeing the young inmates adequate sporting conditions.

b. recommendations

R-16 (Par 134). Both disciplinary cells of the Viljandi Prison are reconstructed by now, they have built sanitary units, ventilation and the natural illumination of cells has improved. The disciplinary cells are now equipped with cold water taps and a sink.

R-17 (Par 135). No additional information regarding the matter.

R-18 (Par 136). At the Viljandi Prison attention has been paid to the improvement of general material conditions. The washing room of inmates is renovated, bringing it into conformity with valid requirements, the outer facade of the prison building is given a more attractive look. The canteen of inmates is to be renovated during 1999.

**General Amendments Performed for the Liquidation
of Shortcomings Outlined in the CPT Statement**

I.

The amendment of clause 55 subclause 2 of the Criminal Code, that took effect on July 19, 1998, has given rise to most attention, because pursuant to it early release from punishment on probation and the substitution of a punishment with milder type of punishment can now be applied in respect to persons previously convicted for an intentional crime, if the punishment for previous crime has not been extinguished or canceled.

This amendment substantially expanded the circle of persons who may be released from punishment on probation, thus creating a basis for the increasing of conduct motivation of most inmates. It should be added that early release from punishment on probation cannot be applied in respect to persons whose death penalty has been replaced due to mercy or amnesty or by a court of law with confinement.

In order to illustrate the above stated, we shall give the following figures i.e. the number of inmates released under this system.

As of 01.07.1997:	83
As of 01.07.1998:	186
As of 01.09.1998:	239
As of 01.10.1998:	338
As of 01.11.1998:	472

The exercise of individual principle is certainly of great importance, pursuant to which each application for early release submitted by an inmate is reviewed individually, that avoiding the general release of inmates. In addition to this the inmate must have previously met certain conditions as follows:

1. Dependent on the length of confinement imposed on the inmate for the incriminated crime and the form of guilt, the inmate must have served at least half/two thirds of the penalty inflicted upon him (a person punished with life confinement must have served at least thirty years);
2. The inmate must be kept at the prison establishment on preferential regime;
3. The inmate must have behaved properly during most of the time spent in prison, had a diligent attitude towards work and studies, and diligently performed all obligations arising from civil claims (so to say demonstrated his rehabilitation);

4. If the inmate meets these requirements, and submits an application for his early release, his application will then be examined by the following institutions:

- the administrative committee of prison;
- the prison committee, made up of public representatives and performing public control over prisons;
- the final resolution is adopted by an independent and impartial court, in the session of which also the prosecutor, who performs legal supervision at the confinement establishment is present with the right to object to the court order.

II.

See R-9 above.

III.

A working group has been formed, preparing amendments of the criminal executive system development concept. The need for the establishment of amendments arises from the constant development of real life and the changing of principles (also in connection with the working out of the new confinement act bill) , as much as currently valid development concept was adopted in 1996. The need for a development concept is also fostered by the fact that the tasks and directions of development stipulated in it are serving as basis for the management of the prison system and the planning of everyday work and future orientation. The development concept also serves as an integral and programmed basis for the development of the prison system. The unified concept has fostered the application for financial means from state budget and other funds (i.e. SIDA, the Open Estonia Foundation, other funds of the EC). The planned amendments shall cover reorganizations first and foremost in the following subprogrammes of the development concept:

- in the prison system organization;
- in the guaranteeing of employment of inmates;
- in the sphere of prison education and medicine;
- in the development of the places of confinement (constructional).

With the amendments referred to above the development concept is brought into conformity with principles stipulated in the confinement act bill and consequently also with general conceptions of the performance of confinement common in Europe.

IV.

See C-1 above.

C. Psychiatric facilities

1. **Safeguards in the context of involuntary admission/consent to treatment**

a. request for information

I-18 On the legal provisions and current practice concerning patients' informed consent to psychiatric treatment and the information to be provided to patients following treatment (paragraph 143)

The working group named in the interim report has prepared the drafts of the following documents:

1. Modified electrical convulsion therapy indications, contraindications and practice.
2. Notice of admission to involuntary treatment justified by necessity.
3. Informed consent to receiving psychiatric treatment.
4. Regulations for using physical restraint.
5. The form of using physical restraint.
6. Information for and informed consent to practising modified electrical convulsion therapy (in preparation; the Ministry has not yet submitted the project).

The documents will be signed by the Ministry of Social Affairs by the end of the December of 1998 at latest.

c. comments

C-14 The activities of the Psychiatric Patient Advocacy Association should be extended to all psychiatric establishments (paragraph 144)

The Ministry of Social Affairs continuously supports and finances the activities of the Estonian Psychiatric Patient Advocacy Association. With the help of the Ministry, the financing of the Association from the state budget continues, as well as introducing the work of the association to the public, promoting national and international co-operation, and other similar activities.

In September this year, in three psychiatric hospitals (in Tallinn, Tartu, and Jämejala) international seminars on introducing the activities of patient advocacy associations were carried out (participants from Latvia, Lithuania and Russia attended).

2. Forensic sections at the Tallinn Psychiatric Hospital

a. requests for information

I-19 About the planned new forensic unit (paragraph 155)

The Government of the Republic of Estonia has submitted to the Riigikogu (the Parliament) the draft of the state budget for 1999, in which 17.5 million kroons have been designated for designing and constructing the Forensic Unit. If the Riigikogu approves the budget draft, the construction begins in 1999.

In order to co-ordinate the activities relating to the construction of Forensic Unit, a steering committee is planned to be established in the near future, including members from the Ministries of Social Affairs, of Internal Affairs, and of Justice, as well as from the Social Affairs Committee of the Riigikogu, from the Supreme Court, Estonian Psychiatrists Association, Estonian Psychiatric Patient Advocacy Association and Tartu University Department of Psychiatry.

b. recommendations

R-76 Steps should be taken to develop psycho-social therapeutic activities for patients at the forensic psychiatric section in the Central Prison (paragraph 147)

R-77 The current staff arrangements and training in Unit 13 of Tallinn Psychiatric Hospital should be reviewed in the light of the remarks made by the CPT (paragraph 153)

In 1998 the Ministry of Social Affairs allocated 162 000 kroons to improve the living conditions in Unit 13 of Tallinn Psychiatric Hospital. Possibilities for spending time in the open air have been created, an electronic alarm system and a fire alarm have been installed.

Beginning in 1999, the number of people working in Unit 13 will be increased: more doctors, nurses and caretakers will be employed.

The nurses and caretakers continuously participate in advanced training courses carried out by doctors in the form of lectures and discussions. Every day the state of a patient is discussed in the ward, analysing his/her diagnosis, treatment and rehabilitation. 8 nurses, 8 caretakers and 1 occupational therapist have been trained in the forensic psychiatry ward of the Huddinge Hospital in Stockholm. 6 nurses have received vocational training at Tartu University. For 1999, the continuation of staff training is planned in Tartu University, in the forensic psychiatry ward of the Huddinge Hospital, as well as within hospitals. At the end of 1998 advanced training courses in forensic psychiatry will take place in Tallinn for doctors-psychiatrists and psychologists. A similar course was organised in 1996 by the University of Tartu and the Huddinge Hospital in Stockholm.

R-78 Staff in Unit 13 should be reminded that the ill-treatment of patients is not acceptable and will be dealt with severely (paragraph 154)

See R-77.

R-79 Appropriate steps should be taken towards minimising the risk of inter-patient sexual abuse/exploitation in Unit 13 (paragraph 154)

See R-77.

R-80 Plans concerning the opening of a new forensic unit in Tallinn Psychiatric Hospital should be given a high priority (paragraph 155)

See I-19.

R-81 The hours of attendance by a psychiatrist in Unit 13 should be increased (paragraph 155)

See R-77.

R-84 Staff in Unit 13 should persevere in their efforts to develop the range of therapeutic activities offered to patients (paragraph 155)

See R-77.

3. Tartu University Psychiatric Hospital

a. request for information

I-20 On the extent of the use of modified ECT (paragraph 160)

b. recommendations

See I-18.

R-85 Steps should be taken to ensure that all safeguards concerning the involuntary admission of patients to a psychiatric hospital are rendered fully effective in practice (paragraph 158)

See 1-18.

R-86 All competent patients should be provided systematically with relevant information about their condition and the treatment prescribed for them; relevant information should also be given to patients following treatment (paragraph 159)

See 1-18.

R-87 Clear guidelines should be set out by the medical direction of the hospital defining the use of isolation of children (paragraph 161)

See 1-18.

R-88 Any use of isolation or physical restraint in respect of a patient should be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking approval (paragraph 162)

See 1-18.

R-89 Any use of isolation or physical restraint in respect of a patient should be recorded in both the patient's file and in an appropriate register with an indication of the time at which the measure began and ended, the circumstances of the case, the reasons for resorting to such a measure and an account of any injuries sustained by patients or staff (paragraph 160)

See I-18.

4. Valkla Care Home

b. recommendations

R-90 An in-depth and independent review and audit should be made of Valkla Care Home in its entirety, in order to fully establish the causes of the serious problems brought to light during the CPT's visit, and appropriate remedial action should be taken (paragraph 172)

Special Care Development Programme: Guidelines and Objectives for 1998-2000 has been prepared. (See: above).

In the summer of 1998, a translation from English into Estonian of *Psychiatric Rehabilitation (Psühhiaatriline rehabilitatsioon)* by American authors William Anthony, Mikal Cohen and Marianne Farkas (1 000 copies printed) was published.

During 1997 and 1998, the independent monitoring body of the social welfare institutions in Harju County (incl. Valkla Care Home) examined the work and management of the institution in detail. In the January of 1998, an open contest for the replacement of the director and the managerial staff was held.

During the first year of activities of the new administration, considerable changes have taken place in the above-mentioned social welfare home:

1. A special occupational therapy unit has been established. 10 people work in the unit, whose primary duty is to deal with the clients living in Unit 4.
2. In the spring of 1998, 12 staff members graduated from Tallinn Pedagogical Seminar and finished two-year vocational training courses organised by the Harju County Government, acquiring the profession of the caretaker.
3. The workers of Valkla Care Home participate in refresher courses organised by different institutions (the Ministry of Social Affairs, educational institutions). For instance, in October a seminar on human rights in social welfare institutions (Inimõigused hoolekandeaustustes) was arranged in co-operation between the Council of Europe, the Ministry of Social Affairs and the Estonian Institute for Human Rights.
4. The reconstruction of Unit B has begun, in order to change the existing hostel-like building with corridors into a modern group home with flats for 60 people with 4 separate entrances. By the end of 1998, all necessary communication systems (water supply, heating, electricity, sewage disposal system) will have been established, and one third of the general construction work will have been finished. In addition, on the attic floor rooms for leisure activities will be furnished. In 1998, 3 million kroons has been spent on the above-mentioned work, and in 1999 also ca 3 million kroons. The reconstruction of Unit B will be finished in 1999.
5. During 1998, the number of clients was reduced by ca 50 people and the reduction of the number of clients continues. Referral to all special care homes is still allowed in certain cases only (according to our interim report), if non-referral clearly dangers the life and health of the client or other people.
6. The life in Unit 4 has changed: all internal doors are open and the clients are free to move about freely within the building; the number of people working in the unit has been increased, especially the number of occupational therapists and caretakers; as far as possible, a friendlier and more pleasant physical environment has been created.
7. In co-operation between the Ministry of Social Affairs, Harju County Government and Valkla Care Home, alternative living places for the inhabitants of the institution are being provided. Negotiations have been held with several local government units to buy flats and to find places that could be converted into group homes.

R-91 Staff should be reminded that ill-treatment of patients is not acceptable and will be dealt with severely (paragraph 173)

The official investigation of Mr. X case has been terminated. No direct use of violence towards Mr X by workers and fellow clients was ascertained.

In order to prevent violence, organisational measures have been taken within the institution. See: R-90 sections 2 and 3.

R-92 Staff should be reminded that they have a duty to protect patients from other residents who might wish to cause them harm (paragraph 173)

See: R-90 the book on psychiatric rehabilitation, sections 2 and 3.

R-94 Sanitary facilities in Units A, B and C should be renovated and all such facilities should be kept in an appropriate state of hygiene (paragraph 173)

All toilets and bathrooms in Units A, B and C have been totally renovated.

R-95 Efforts should be made to provide more congenial and personalised surroundings for patients; further, patients should be provided with a lockable space in which to keep their personal belongings (paragraph 173)

See: R-90.