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Inspection visit to Viru Prison

One of the duties of the Chancellor of Justice is to carry out regular supervision over places of detention (including prisons) (§ 1(7) and § 27 of the Chancellor of Justice Act and Article 3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment). With that in mind, the Chancellor carries out inspection visits at a time agreed with an institution in advance as well as without prior notice.

On 21−22 October 2021, the Chancellor's advisers inspected Viru Prison at short notice. I would like to thank the prison for its readiness to cooperate, smooth dealings and competent explanations provided by prison officers both during and after the inspection visit.

The inspection visit focused on the situation of people in solitary confinement as well as minors and young people. The Chancellor's advisers spoke with convicted and remand prisoners in solitary confinement, communicated with prison officers and staff and carried out a tour of the prison grounds and rooms. A selection of documents was also examined. During the visit, the Chancellor's advisers were accompanied by healthcare experts: a psychiatrist and a general practitioner. The Chancellor last inspected Viru Prison in 2018.

It is commendable that the prison has started to pay more attention to how to achieve good contact with minor and young prisoners and, instead of punitive measures, rather prefers to apply motivational measures. Design elements (e.g. a cork board) have been introduced in the cells of minors and young people, enabling them to make their cells more personalised. It is also positive that call buttons have been installed in the exercise yards that were checked, and that the situation in observation cells P214 and P216 has been partially improved.

Unfortunately, not everything at Viru Prison complies with laws and international requirements. Many of the problems found at Viru Prison are similar to problems identified during the inspection visit to Tartu Prison in 2020. In the reply of 8 March 2022 No 10-2/2998 to the Chancellor of Justice, the Ministry of Justice noted that several of the issues pointed out in the summary of the inspection visit to Tartu Prison are being analysed by the Ministry. This is a welcome development.

However, it should be noted that many of the issues have been under analysis at the Ministry of Justice for years but to date no significant changes have occurred in legislation or the practice in prisons. Shortcomings in the work of prisons, including Viru Prison, can still be found, which do not facilitate reintegration of people into society and create a favourable situation for ill-treatment of people. It is the Chancellor's duty as the national preventive mechanism to draw attention to these shortcomings and, if necessary, to do so repeatedly.

Once again, I draw attention to the fact that since 2014 no solution has been found to the issue of expanding remand prisoners' opportunities for movement and communication. A persistent problem is also that prisoners must often serve disciplinary confinement punishments several times exceeding the maximum thresholds under international standards. Assessment of the need for committing a person to an isolated locked cell is not always clear. Prisoners in the reception unit must be taken to an ordinary unit as soon as possible after initial risk assessment and a decision on placement. No logical reason exists as to why long-term visits are banned for prisoners in the reception unit. Every day the prison must monitor the health of people in solitary confinement and offer them opportunities for meaningful human contact. Medication prescribed for a prisoner may only be distributed by healthcare professionals. Large-scale application of direct coercion in Viru prison is worrying.

The overall living conditions and conditions in the disciplinary cell need improvement. The situation and furnishings in the dayrooms in the units for minors and young people was largely the same as during the inspection visit in 2018. The appearance of dayrooms should be made cosier and more appealing – for example, by painting the walls, acquiring furniture which is in a better condition and more appealing to young people (e.g. bean-bag chairs), etc. Minors and young people must be involved more in decision-making that concerns them – this may relate to the motivational system, living conditions, hobby activities, and the like. If the prison in its everyday work were to use methods based on restorative justice, this would be conducive to creating and maintaining a good internal atmosphere (including prevention of new conflicts and violations), as well as supporting reintegration of minors and young people into society. For this, prison officers and specialists need training.

Inter alia, the living arrangements and conditions in prison must serve the aim of re-socialising inmates. Creating opportunities for study, maintaining family relationships and keeping abreast of developments in society significantly increase the possibility that upon release a person will start or continue leading a law-abiding life. Thus, prison plays a major role in making society safer, reducing recidivism, and at the same time reducing the cost of imprisonment.

Convicted and remand prisoners should also be able to communicate with their families and children via video calls. Various opportunities for communication help to maintain contacts outside the prison, which, in turn, offer a prisoner an opportunity to maintain a law-abiding life after release from prison. Conditions that do not contribute to contact by convicted and remand prisoners with their next of kin must be reviewed and the automatic ban on visits associated with disciplinary confinement must be abolished. The library reform reduced the choice of books and thus also possibilities to read in prison. For this reason, consideration should also be given to how books could once again be made more accessible to convicted and remand prisoners. The prison must ensure that the prison rules of procedure (i.e. house rules) and their explanatory memorandum are easily accessible to convicted and remand prisoners (including foreigners).

Viru Prison is in need of officers directly dealing with convicted and remand prisoners; a shortage of these officers is a long-standing issue. Shortage of staff affects the working mood of officers as

well as the ability of the prison to meaningfully deal with convicted and remand prisoners, which in turn complicates ensuring prison security. According to the assessment by the healthcare expert, the prison medical department also has a large number of staff vacancies. Problems also exist with access to mental health services, as well as compliance with pharmacovigilance requirements and confidentiality of patient data in distributing medicines.

Since the problems found are complex and many of the solutions presume a change of legislation, the recommendations are intended both for the prison and the Ministry of Justice under whose area of administration Viru Prison belongs and whose competence also includes preparing legislation related to imprisonment law.

1. Solitary confinement

As at 18 October 2021, based on data submitted by Viru Prison, among 636 people in the prison, 196 were held in solitary confinement. These were convicted and remand prisoners serving a disciplinary confinement punishment or staying in an isolated locked cell, all remand prisoners, prisoners in the reception unit and those in medical isolation.

Detention conditions of these convicted and remand prisoners are characterised by being held in their cell for up to 23 hours a day, being socially isolated and being totally or largely unable to participate in out-of-cell activities, and also having no opportunity for meaningful daily human contact.

The general practitioner involved in the inspection visit as healthcare expert noted that the prison had not laid down a specific procedure or designated medical staff for monitoring the health of those in solitary confinement. The health condition of convicted and remand prisoners is not assessed daily. In its judgment of 8 December 2021 No 3-18-1895 the Supreme Court emphasised that, since long-term solitary confinement primarily endangers a person's mental health, it is not sufficient to rely only or mostly on the premise that the prisoner themselves notifies a deterioration in their health. A person might not sufficiently quickly perceive – or be able or wish to draw attention to – a deterioration in their mental health (para. 26).

Based on scientific literature and international requirements, as well as expert assessments, I analysed the situation of people in solitary confinement in the summary of an inspection visit carried out at Tartu Prison in 2020. I have also previously drawn attention to the negative effects of solitary confinement (e.g. in statement No 6-1/161019/1604041, recommendations No 7-4/200674/2003054 and No 7-7/200463/2001980).

Viru Prison and the Ministry of Justice are well aware of these opinions. I repeat my earlier recommendations.

A prison healthcare practitioner should assess the condition of everyone in solitary confinement on a daily basis.

The prison should ensure at least two hours of meaningful interaction a day for convicted and remand prisoners held in solitary confinement. Meaningful interaction must take place directly without any physical barriers (e.g. a food hatch, or the like) and enable empathetic human contact. Such interaction may take place during out-of-cell activities with other inmates, as well as by meeting with a person's next of kin, or officers or staff of the medical unit. To ensure meaningful interaction, all staff – and in particular guards who have the

closest contact with prisoners – must apply the principles of dynamic security in their everyday work. The prison management should organise the necessary training for staff and provide them the relevant instructions for work.

1.1. Remand prisoners

Remand prisoners in Viru Prison very rarely participate in out-of-cell activities. Some people have not participated in any out-of-cell activity during the two years they have been remanded in custody. As a rule, out-of-cell activity for remand prisoners and their contact with others is limited to a daily one-hour walk outdoors and infrequent meetings with an inspector-contact person. Only some people who have been remanded in custody for a long time are involved in education. No social programmes or other activities (e.g. participation in hobby or sports groups) have been offered to remand prisoners. The prison has tried to activate people mostly by offering them a possibility to participate in prison maintenance work (e.g. as a cleaner).

I have also drawn attention to the need for out-of-cell activities for remand prisoners in the recommendations sent to Viru Prison in 2011 as well as in 2019. I have also said that remand prisoners are essentially in solitary confinement (see the opinion of 26 May 2020 No 7-4/200674/2003054). To prevent and alleviate the possible negative effects of solitary confinement, all remand prisoners should be offered meaningful out-of-cell activities, first and foremost those who have already been remanded in custody for a long time. If possible, placing a long-term remand prisoner in a cell alone should be avoided.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had noted in its report as long ago as in 2005 and most recently in its report of 2019 that Estonia should begin to radically improve remand prisoners' opportunities for activities. According to the CPT's assessment, remand prisoners must be able to spend part of the day (eight hours or even more) outside their cells, and they must be engaged in purposeful activities of a varied nature. Most recently (in 2021) the CPT sent similar recommendations to Finland (para. 47). The recommendations state that the longer a person is remanded in custody the more opportunities they should have to participate in purposeful out-of-cell activities.

The situation of remand prisoners (whose contact with other remand prisoners does not need to be restricted in the interests of criminal proceedings) could be significantly improved if, similarly to convicted prisoners, they could participate in purposeful activities and be outside the cell at least four hours a day (§ 8(1) Internal Prison Rules). Locking all remand prisoners, without exception, in their cells (first sentence of § 90 subs. (3) and subs. (5) Imprisonment Act) does not enable consideration of the procedural interests relevant at a specific moment in time and that the need to prevent compromising criminal proceedings might not be the only reason for holding a person in custody.

It is extremely unfortunate that, since the Chancellor's proposal made in 2014 and the guidance provided by the Riigikogu, the Ministry of Justice is still analysing the issues of expanding the freedom of movement and opportunities for remand prisoners to maintain contact, and the Imprisonment Act has still not been amended.

The Ministry of Justice should immediately prepare and submit to the Riigikogu a Draft Act for amending the first sentence of § 90 subsection (3) and subsection (5) of the Imprisonment Act on remand prisoners' freedom of movement and opportunities for contact.

The prison should take immediate steps to prevent and alleviate the possible negative effects of solitary confinement on remand prisoners. Among other things, this means that remand prisoners should be offered purposeful out-of-cell activities.

1.2. Reception unit

On 18 October 2021, there were 14 prisoners in the reception unit at Viru Prison. Interviews with prisoners revealed that they believed they had to stay in the reception unit for three months, i.e. the longest possible period laid down by § 14(4) of the Imprisonment Act. Four prisoners had been in the reception unit for almost three months. The data obtained later affirmed that two of the prisoners had been released from the reception unit upon completion of three months, one prisoner was in the reception unit for more than three months (six days more) and one prisoner slightly less than three months. Two of these four prisoners had previously been in the prison as remand prisoners.

During the three months, all four prisoners met with officers from the prison information and investigation department and an inspector-contact person only on a few occasions and mostly this occurred fairly soon after placement in the reception unit. Two of the prisoners were able to participate in a communication programme after a month had passed from their placement in the reception unit. The duration of the programme was 1.5 months and, as a rule, it included a weekly interview with a probation supervision officer. One prisoner was involved in the programme after the passing of two months. With regard to one prisoner, no information was available to indicate any involvement in the programme or other out-of-cell activity.

While in the reception unit, as a rule, prisoners spent 23 hours a day in their cells, they lacked opportunities for daily meaningful contact ant did not participate in out-of-cell activities. Based on these data, it may be said that the living arrangements in the reception unit possess characteristics of solitary confinement as defined by Rule 44 of the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), paras 54 and 56(a) of the CPT standards, para 25 of the report by the UN Special Rapporteur on Torture, and the positions expressed in the legal literature[1].

Several studies have concluded that people in solitary confinement run a higher risk of health problems than detainees in general and they are more prone to self-harm and suicide.[2] This is also

[1] See e.g. J. Lobel, P. Scharff Smith (eds), Solitary Confinement: Effects, Practices, and Pathways Towards Reform. Oxford University Press, 2020.

[2] See e.g. the summary of the Chancellor's 2020 inspection visit to Tartu Prison and the sources cited therein; WHO, Preventing Suicide in Jails and Prisons, 2007; S. Zhong *et al.*, Risk factors for suicide in prisons: a systematic review and meta-analysis, The Lancet Public Health, Vol 6, 2021; R Reeves, A. Tamburello, Single Cells, Segregated Housing, and Suicide in the New Jersey Department of Corrections, The Journal of the American Academy of Psychiatry and the Law, 2014; S. Fazel *et al.*, Suicide in Prisoners: A Systematic Review of Risk Factors, Journal of Clinical Psychiatry, 2008; N. Konrad *et al.*, Preventing Suicide in Prisons, Part I: Recommendations from the International Association for Suicide Prevention Task Force on Suicide in Prisons, The Journal of Crisis Intervention and Suicide Prevention, 2007/28 (3); Kriminalvårdens Reprocentral, Prison suicide in 12 countries. An ecological

indicated by incidents of death in Estonian prisons from 1 September 2019 to 1 September 2020 − all the suicides during this period were committed in solitary confinement.

The CPT has underlined that, in terms of individual risk and needs assessment and identifying the risk of self-harm, prison reception and induction programmes have an important role to play for persons who enter the prison system. These programmes must help to relieve the anxiety experienced by people after arrival in prison or even already when learning of a judgment of conviction while detained on remand. The CPT's experience also shows that in some countries reception and induction programmes may last for several weeks and the regime applied to prisoners undergoing them may be highly restrictive, essentially amounting to solitary confinement. Therefore, the CPT has reached the opinion that a person should be allocated to an ordinary accommodation unit as soon as possible after a risk and needs assessment. Moreover, conditions for newly-arrived prisoners should not amount to a solitary confinement-type regime for prolonged periods (CPT 26th General Report, para. 54). In the recommendations given to Romania in 2019 (para. 78) and to Portugal in 2018 (para. 68), the CPT noted that the risk of suicide may increase during periods immediately following admission to prison as well as before and after trial. For this reason, the admission process plays an extremely important role in suicide prevention.

After the initial risk assessment and a decision on placement, as laid down by § 2(2) of the guidelines for drawing up and implementing a prisoner's individual treatment plan, prisoners in the reception unit must be transferred to an ordinary unit as soon as possible. This helps to avoid the negative effects of being held in solitary confinement under the reception regime, including prevention of self-harming behaviour. Under § 79 of the Imprisonment Act, young prisoners may not be held in the reception unit for more than two weeks. The same requirement should also apply to adults. Only in exceptional and justified cases may this period be longer.

The prison must guarantee that a prisoner's life and health are not endangered and that they do not fall victim to violence or bullying by fellow inmates. Prison security and the life and health of other people are also very important considerations. Therefore, it is clearly justified that a prisoner should stay in the reception unit until the prison has carried out an initial risk assessment and made a decision on the prisoner's placement within the prison. If a prisoner was detained in the same prison on remand, the prison has already previously assessed some risks in respect of the person and the prison has more information about the prisoner's behaviour and risks associated with them. Thus, a decision on intra-prison placement of that prisoner should be made more quickly than in the case of a first-time arrival in prison.

A delay in transferring a prisoner to an ordinary unit can only be lawful if this is necessary and justified. It is incomprehensible why, after the initial risk assessment and a decision on placement, a prisoner might not await completion of their individual treatment plan (i.e. a decision on measures to reduce criminogenic risks and preparing a schedule for implementing them) in an ordinary unit.

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study of 861 suicides during 2003–2007, 2010; L. Favril *et al.*, A 17-Year National Study of Prison Suicides in Belgium, The Journal of Crisis Intervention and Suicide Prevention, 2019/40 (1).

It is also not justified that all prisoners in the reception unit are banned long-term visits with their children and other next of kin (§ 25(3) Imprisonment Act). Communication with next of kin helps to alleviate the stress inherent in a sentence of imprisonment and prevent self-harming behaviour. This is also important for a prisoner's next of kin (especially children) who wish to know under what conditions the person close to them is staying and whether they are alive and well.

It should also be taken into account that people who were previously held in the prison as remand prisoners – and who at that time were entitled to apply for long-term visits – are also placed in the reception unit. Therefore, no good reason exists for banning long-term visits at the reception unit for a prisoner who was previously detained in the prison on remand. A situation may also occur that by adding the time passed from the latest long-term visit (if the person was in the prison on remand) to the time spent in the reception unit, this no longer complies with the minimum frequency of long-term visits laid down by § 45 of the Internal Prison Rules.

The prison should ensure that prisoners in the reception unit are moved to the ordinary unit as soon as possible. This helps to avoid the negative effects of solitary confinement and, inter alia, prevent self-harming behaviour among prisoners. Where necessary, the Ministry of Justice should prepare the required legislative amendments.

The Ministry of Justice should prepare a draft legislative amendment to § 25(3) of the Imprisonment Act to remove from the law the ban on long-term visits for prisoners placed in a reception unit.

1.3. Disciplinary cell

Prisoners serving a disciplinary confinement punishment in Viru Prison no longer have to stay in the disciplinary cell for several consecutive months or even a year as may have happened earlier. The situation has thus somewhat improved. However, the inspection visit revealed that many people on whom a disciplinary cell sanction had been imposed had stayed in the disciplinary cell for up to 45 consecutive days. This included 45-day punishments imposed for a single violation as well as shorter aggregated punishments. In Viru Prison, the longest disciplinary cell punishments (i.e. 45 days) are imposed for violating the duty to work. Often, it is the same prisoners staying in a disciplinary cell who are subjected alternately to the disciplinary confinement regime and the isolated locked cell regime. Often these prisoners also have behavioural and mental health problems.

Prisoners usually serve a disciplinary confinement punishment in their own cell. A daily schedule for each unit has been established as annexes to the rules of procedure of Viru Prison. According to the daily schedule, prisoners serving a disciplinary confinement punishment hand over their bedding at 06.00−07.00 in the morning and receive it back at 20.00−21.00.

Prisoners said that under § 60(1) of the Internal Prison Rules those in a disciplinary cell may only borrow study or religious literature. Several prisoners noted that they neither study nor are religious, so that their reading material is limited to only a newspaper brought to a cell once in a while. The psychiatrist involved in the inspection visit found that these kinds of restrictions are excessive.

As of the 11th day of disciplinary confinement, persons committed to a disciplinary cell can participate in a communication programme. As a rule, this takes place three times a week, one hour at a time. This is a step in the right direction. Yet this programme does not ensure the possibility for a person in solitary confinement to have at least two hours of meaningful interaction daily, as prescribed by international standards.

Based on available information, punishments of people held in a disciplinary cell during the inspection visit were not related to contacts by these convicted and remand prisoners with their next of kin (e.g. incidents of violence during visits, or the like). Thus, it was not justified to apply a ban on visits with family and children in respect of these convicted and remand prisoners while in disciplinary confinement. This punishment excessively restricted their and their next of kin's right to the inviolability of family life.

The same problems were described in the summary of an inspection visit to Tartu Prison in 2020 and in the Chancellor's opinion (No 16-4/211408/2105134) presented on 10 August 2021. The reasoning put forward in these opinions also applies to Viru Prison. The opinions that I have expressed on the maximum length of disciplinary confinement punishment, the conditions of detention in a disciplinary cell, or finding alternative solutions to disciplinary confinement, have not changed. I repeat my earlier recommendations.

The Ministry of Justice should immediately prepare and submit to the Riigikogu a Draft Act to amend § 63 subsection (1) clause 4, subsection (2) of the Imprisonment Act as well as § 100 subsection (1) clause 3 and subsection (2) of the Imprisonment Act so as to bring these provisions into line with international detention standards and opinions expressed by experts (including the CPT).

A prison may impose disciplinary confinement only in most serious cases, as a measure of last resort, and for as briefly as possible. The duration of disciplinary confinement imposed on an adult may not exceed 14 days. A 14-day period spent in a disciplinary cell must be followed by a reasonable period under the ordinary regime.

The prison should look for alternatives to disciplinary confinement. Where necessary, the Ministry of Justice should prepare the required legislative amendments. The Ministry of Justice should prepare amendments to § 24 subsection (4) and § 25 subsection (3) of the Imprisonment Act so that these provisions do not automatically prohibit visits to all prisoners committed to a disciplinary cell.

The Ministry of Justice should amend § 60(1) of the Internal Prison Rules so that it does not restrict the choice of reading material for prisoners in a disciplinary cell. The prison should change the practice of interpreting § 7(4) clause 1 of the Internal Prison Rules and also allow a prisoner to use the bedding in a disciplinary cell during the daytime.

1.4. Isolated locked cell

The directives checked contained detailed descriptions of the underlying reasons for using additional security measures (including placement in an isolated locked cell). The directives noted that measures are to be used until the relevant circumstances cease to exist.

However, the directives lacked information about assessing the need to continue applying the measure (e.g. directive of 15 July 2021 No 3-21/1-2/200, directive of 14 April 2021 No 3-21/1-2/79, directive of 29 July 2021 No 3-21/1-2/216). This allows the conclusion that the need for applying the measures was again assessed only before their discontinuation. In some instances, this meant that restrictions in respect of a person remained in force for approximately half a year without assessing the justification for continuing those restrictions in the meanwhile (e.g. the directive of 12 April 2021 No 3-21/1-2/74 on the application of a measure, and the directive of 21 October 2021 No 3-21/1-2/396 on discontinuation of the measure). Nor was it clear from the directives checked what immediate interventions the prison had undertaken to transfer people back to the ordinary unit.

A directive on applying additional security measures must clearly set out when the restrictions are to be reviewed and what circumstances will be taken into account in doing so. Preparing a convicted or remand prisoner for return to an ordinary unit should start immediately after the person is placed in an isolated locked cell. The objective should be that the person is released from solitary confinement as quickly as possible.

If a prisoner is placed in a locked cell for a short time, for instance only for the purpose of ascertaining the facts of an incident, they might indeed not need all the additional interventions noted in their individual treatment plan in order to return to an ordinary unit. However, the prison must nevertheless ensure opportunities for a person to have meaningful human contact for at least two hours a day.

In a situation where a convicted or a remand prisoner is placed in an isolated locked cell because they pose a danger to themselves and/or others, an action plan based on their needs should be prepared for their return to an ordinary unit. In this regard, interventions set out in a prisoner's individual treatment plan are not enough, but the prison must additionally intensively deal with the reasons leading to the person's placement in an isolated locked cell.

Although, according to the assessment by the Ministry of Justice, preparing such an individual action plan is not necessary, I nevertheless maintain the opinion that a prison cannot merely hope that a person's attitude and behaviour would change only because they are isolated from others and left on their own to reflect on the situation. It is important that close and meaningful daily contact should be maintained with a prisoner staying in an isolated locked cell, that the reasons for their committal to solitary confinement are actively dealt with and they are helped to return among the ordinary prison population as soon as possible. An individual plan for withdrawal from solitary confinement was also considered important by the CPT in its 21st General Report (para. 57 (c)), and most recently in the recommendations sent to Spain in 2021 (para. 75) and the recommendations to the United Kingdom in 2020 (paras 89-91).

A directive on deciding to commit a prisoner to an isolated locked cell for some time must also set out the events taking place during the assessment period, including any interventions by the prison and their results. I emphasised this in the summary of an inspection visit to Tartu Prison in 2020 (see paras 1.5.-1.5.1.), and these opinions and their underlying reasoning are also well known to Viru Prison. I repeat and elaborate on the earlier recommendations.

The prison should draw up detailed guidelines to assess the need for placement in an isolated locked cell. The guidance should also clearly set out that directives on applying a measure

must clearly indicate that the measure is to be discontinued immediately after the underlying circumstances for it cease to exist but in any case the necessity to continue the measure is to be reviewed after a specific interval (advisably not less often than once a month).

The guidelines should also direct prison officers and staff to take steps with a view to releasing a person from solitary confinement as soon as possible. This could be ensured by having an individual action plan for return from solitary confinement prepared for everyone held in an isolated locked cell (in particular those who have been committed to solitary confinement because they pose a danger to others and/or themselves). A directive containing a decision to continue the application of an isolated locked cell must also set out the events that took place during the assessment period, including any interventions by the prison written in the individual treatment plan, and the results of those interventions.

1.5. Observation cells

A large part of the shortcomings related to observation cells P214 and P216 pointed out in the opinion of 17 December 2019 (No 7-4/191561/1906265) had been remedied. Dense metal mesh from the cell windows had been removed, the cells had been fitted with sinks and furnished with clothes racks and shelves that convicted and remand prisoners can use to keep personal belongings. Despite this, upon inspection, the flushing water from the bowl-less toilet in cell P216 still flowed on to the cell floor, reaching the bed on the floor. This is not hygienic. Engineering solutions of a cell must prevent a person's bedding or personal clothing from getting wet.

During the inspection visit, a restless and self-harming prisoner was in cell P214. The healthcare expert, who is a psychiatrist, pointed out that for an aggressive person suffering from motor restlessness it is not sufficiently safe to stay in observation cells P212, P214 and P216 (e.g. the cells contain furniture with sharp edges). A calming-down cell (also called a padded/rubber/smooth cell) should be built so that a person cannot injure themselves while in the cell.

The expert pointed out that if a self-harming or suicidal person is segregated from others and is placed in an isolated locked cell then this rather leads to the risk that the person's mental health problems will deteriorate even further. These kinds of prisoners should be enabled an environment, programmes and regime which are more appropriate and take account of their needs.

I also drew attention to the conditions in a calming-down cell and the detention regime taking account of the needs of convicted and remand prisoners who are a danger to themselves in the summary of an inspection visit to Tartu Prison in 2020 (see paras 1.5.1 and 4). I repeat my earlier recommendations.

In observation cell P216, the prison should find a solution to prevent water from flowing on to the floor and to the bed. Until this shortcoming is remedied, people must be placed in other cells.

If observation cells are used for calming down, they must be turned into safe rooms conducive to calming down. A person may be held in such a cell only as long as this is unavoidably necessary. Use of a calming-down cell must be documented in detail. A prison healthcare professional must be notified of a prisoner taken to a calming-down cell so that they can examine the person. A decision on placing a person who is a danger to themselves

in a calming-down cell must be made by a prison healthcare professional. If a healthcare professional finds that a person to be placed in a calming-down cell should be relieved of their clothes for security reasons, the clothes must be immediately replaced with safe clothing.

The prison should seek alternatives to using an isolated locked cell, in particular if this concerns detention of prisoners who are self-harming, suicidal or suffering from mental disorder. Where necessary, the Ministry of Justice must prepare the required legislative amendments.

2. Direct coercion

During the period from 1 January to 20 October 2021, Viru Prison drew up 298 reports on the use of physical force, a service weapon, special equipment or means of restraint, and examination of the health condition of a violator. In 238 of the recorded cases, direct coercion was used in respect of one and the same prisoner.

According to the list sent by the prison, during that period there were several more prisoners in the prison in respect of whom direct coercion was used repeatedly. These prisoners were at the same time either under the disciplinary cell or the isolated locked cell regime, and they had behavioural and/or mental health problems. Prison officers conceded that dealing with a difficult prisoner often requires the attention of the whole unit and sometimes even the whole prison. As a result, the needs and interests of other convicted and remand prisoners may be overlooked.

This situation is worrying. The prison should look for alternatives to direct coercion and isolation of people. In other countries, a motivational system and intensive intervention programmes are also used to cope with difficult prisoners. Instead of isolating people and keeping them under austere conditions, such prisoners are placed in a unit with a crisis team consisting of several specialists and constantly dealing with prisoners.[3] The CPT in its 2020 report noted that, in Ireland, such people are dealt with in a so-called challenging behaviour unit.

The healthcare expert, i.e. a psychiatrist, participating in the inspection visit pointed out that such a unit definitely requires more staff and relevant training and support from the medical department and psychologists. Staff at the unit should closely communicate with prisoners and implement activities and programmes that would help to influence these people to change their behaviour. Viru Prison has a positive experience with minors and young people, and this approach should also be used in interacting with adults manifesting difficult behaviour.

The prison should look for alternatives to use of direct coercion and isolation of inmates in order to cope with difficult prisoners. For example, of assistance in this respect might be an incentive system, units specialised in resolving behavioural and mental health problems, or the like. Where necessary, the Ministry of Justice should prepare the required legislative amendments.

[3] See e.g. Vera Institute of Justice, Segregation Reduction Project Findings and Recommendations, 30 January 2015; S. Zyvoloski, Impacts of and Alternatives to Solitary Confinement in Adult Correctional Facilities, Social Work Master's Clinical Research Papers, 2018.

3. Living conditions

3.1. Cells

While touring the premises, the Chancellor's advisers ascertained that several cells (e.g. cells V420, V421, V221, V616, V802) were in a poor state of repair. There was mould on the floor, walls and ceiling of the sanitary facility, and paint was peeling. In several cells (e.g. cells V420, V421, S510) window glass was cracked. In several cells (e.g. cells R118, R208) in the unit for minors and young people, the cover was missing from toilet flush tanks.

Under § 45(1) of the Imprisonment Act, a cell must meet the general requirements established for dwellings on the basis of the Building Code. The regulation "Requirements for dwellings" lays down, inter alia, that a cell must have the air temperature required for dwelling and a safe and healthy living environment. The requirement of the air temperature required for dwelling and maintenance and cleanliness of rooms has been emphasised in Rules 13 and 17 of the Mandela Rules as well as Rule 19 of recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe on European Prison Rules. The good condition and proper temperature of rooms is also considered extremely important by the World Health Organisation (WHO) and the CPT (CPT/Inf (2015) 44).

Section 64^1 clause 1 of the Internal Prison Rules prohibits a prisoner from owning items which can be used to cause injury. By placing a prisoner in a cell with cracked window glass, the prison creates a possibility for a prisoner to obtain prohibited items and harm themselves or others with them. A prisoner can also easily obtain prohibited items (such as wires) from an uncovered toilet flush tank.

The prison should ensure maintenance of prisoners' living space. This may mean that in the cells mentioned above, as well as other cells in a similar condition, repairs must be carried out and, if necessary, cell furnishings and fittings also repaired. As soon as possible, cracked glass in windows should be replaced because this may pose a security risk and also affect cell temperature.

3.2. Lighting

In my opinion sent on 17 December 2019 (No 7-4/191561/1906265), I drew the attention of Viru Prison to the fact that if a cell window is covered by a dense mesh then not enough natural light reaches the cell. Unfortunately, while touring the premises, the Chancellor's advisers found that the prison still had cells (e.g. cells R218 and K118) where windows were covered exactly with this kind of mesh.

In some situations, additional security measures need to be taken in order to prevent a person with aggressive behaviour from breaking cell furnishings (including windows). At the same time, alternative means (e.g. impact-resistant glass) are available which prisons use even now and which do not prevent natural light from reaching the cell to the same extent as metal mesh.

The prison should remove dense metal mesh from cell windows and ensure security by other means.

3.3. Outdoor exercise areas

Many prisoners in closed units who spoke with the Chancellor's advisers did not use the right to go for a daily walk outdoors. Prisoners noted that there is nothing to do in the empty exercise boxes and that the physical environment in exercise boxes actually causes stress instead of alleviating it.

The exercise boxes that were checked contained call buttons and roofs protecting users from inclement weather. Unfortunately, not all the boxes checked had a bench for taking a rest or training equipment (e.g. exercise box No 12 in the 'purple' building). Among others, the Chancellor's advisers' attention was drawn to the absence of a place to rest by a person with reduced mobility who claimed to have been repeatedly taken for a walk in such an exercise box. Exercise boxes were gloomy concrete shells with a grated roof and with only a limited view of the sky.

Under § 55 subsection (2) and § 93 subsection (5) of the Imprisonment Act, convicted and remand prisoners are entitled to spend time in the open air. The Chancellor has repeatedly stressed the importance of this opportunity in ensuring both physical and mental well-being (e.g. in the 2017 recommendation to Tallinn Prison, the 2016 recommendation to Tartu Prison, the 2014 recommendation to Viru Prison, the 2020 recommendation to Tartu Prison). Rule 23 of the Mandela Rules, Rule 47 of the UN Rules for the Protection of Juveniles Deprived of their Liberty (the so-called Havana Rules) and Rule 27.1 of the European Prison Rules also stipulate that a prisoner is entitled to spend time and to train in the open air.

The CPT has constantly been of the opinion that an exercise yard should be located at ground level, it should not have an oppressive environment, and the right to spend time in the open air does not mean only the possibility to walk in a concrete box but it also means the right to train, to see the sky and the horizon and to use the possibility to rest during a walk and take cover from precipitation. Most recently, the CPT reiterated this opinion in the report sent to Sweden in 2021 (para. 36), the report sent to Estonia in 2019 (para. 50), as well as the 2019 report to the Czech Republic (para. 43) and the 2019 report to Slovakia (para. 47).

The CPT criticised exercise areas similar to exercise boxes at Viru Prison in its 2017 report (para. 60) and the 2021 report to Spain (para. 71), as well as the 2020 report to Italy (paras 50–57). Inter alia, the CPT asked that grilles covering the exercise yard be removed, that possibilities be created for training and resting in these facilities, and that visual stimuli – such as mural paintings – be created in exercise yards. In the 2019 report to the Czech Republic, the CPT recommended installing windows in the concrete walls of exercise yards to create a horizontal view from them. In the 2016 report to Slovakia, the CPT suggested that prisoners held under a segregated regime should be offered the possibility at least occasionally to walk in a facility with a window allowing a horizontal view.

When establishing a violation of Article 3 of the European Convention on Human Rights and Fundamental Freedoms, the European Court of Human Rights has paid particular attention to exercise yards and their furnishings and fittings (see e.g. Ananyev and Others *v.* Russia, para. 150; Gladkiy *v.* Russia, para. 69; Moiseyev *v.* Russia, para. 125), and in doing so has also referred to CPT standards and opinions.

In its judgments, the ECtHR also takes into account in respect of whom a disputed action or inaction was committed.[4] For instance, the absence of a bench in the exercise area may simply be an inconvenient and unpleasant experience for a so-called ordinary victim, but if a victim is a person in a vulnerable situation (e.g. a person with reduced mobility), this may amount to degrading treatment in the combination of circumstances.

Specialist literature and studies have affirmed that prison architecture affects a person's physical and mental well-being, it can contribute to building a person's positive identity, prison security, and directing a person to law-abiding behaviour.[5] Prison premises, including the exercise area, can be improved in several ways. Training equipment and benches for resting should be fitted in all exercise boxes and windows offering a horizontal view should be installed where this is possible in terms of engineering and without endangering prison security. Convicted and remand prisoners participating in the art group or in training as painters could help in making exercise boxes more appealing. Cooperation with art and design university students may also be considered.[6]

The prison should make efforts to ensure that the exercise areas of convicted and remand prisoners meet international detention standards and recommendations of international organisations. Prisoners in closed units could be allowed at least occasionally to walk in a courtyard that offers a view to the horizon and experience the benefits of being in the open air (e.g. natural elements).

4. Access to information

Under the European Prison Rules, on admission, and as often as necessary afterwards, all prisoners must be informed of the regulations governing prison discipline and of their rights and duties in prison. This information must be provided in writing and orally in a language they understand (Rule 30.1). The same has been stated in the Mandela Rules (Rules 54–55) as well as in the CPT's recommendations to Denmark in 2020 (paras 104–105).

For at least half of the convicted and remand prisoners in Viru Prison during the inspection visit, Estonian was not the mother tongue. Nevertheless, the rules of procedure of Viru Prison and their explanatory memorandum accessible on computers adjusted for convicted and remand prisoners were not available in the foreign languages most frequently used among prisoners. At the same time, convicted and remand prisoners in Viru Prison could access via computer, for example, the foreign-language translations of Tartu and Tallinn Prison rules of procedure and their explanatory memorandums. Thus, it should also not be complicated for Viru Prison to have the prison rules of procedure and their explanatory memorandum translated into the most frequently used foreign languages in the prison and make them available on computers adjusted for convicted and remand prisoners.

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[4] See e.g. ECtHR, 5310/71, Ireland *v.* the United Kingdom, 18 January 1978, para. 162.

[5] See e.g. EuroPris, Designing for rehabilitation, 2019; UNOPS, Technical guidance for prison planning, (2016); E. Fransson, F. Giofré, B. Johnsen (Eds.), Prison architecture and humans, (2018); R. Karthaus, L. Block, A. Hu, Redesigning prison: the architecture and ethics of rehabilitation, The Journal of Architecture, 24:2, pp 193−222, (2019); K. Beijersbergen *et al.,* A social building? Prison architecture and staff-prisoner relationships, Crime and Delinquency, vol. 62(7), pp 60−85, (2016); A. Fikfak *et al.*, The contemporary model of prison architecture: Spatial response to the re-socialization programme, Spatium 1(34), pp 27–34, (2016); T. Brun Petersen, Material matters – the social choreography of the state prison of Eastern Jutland, *RASK*, 39, pp 37–66, (2013).

[6] See e.g. the Estonian Academy of Arts, Department of Architecture and Urban Planning, 48 h kong. Interdistsiplinaarne töötuba. 2019 (48 h cell. Interdisciplinary workshop), 22 January 2020.

This would help all convicted and remand prisoners (including foreigners) better understand the rules and dealings concerning everyday life in prison. Knowing the prison rules enables a person to avoid disciplinary punishments resulting from violating the rules. Understanding the rules is also important for ensuring order in prison and thereby protecting the life and health of prisoners as well as the fundamental rights of prison officers.

The prison should find possibilities to ensure that all convicted and remand prisoners could receive information essential in terms of their rights. In this regard, an important role is played by an inspector-contact person who is able to notice when a person needs additional information. If possible, an inspector-contact person offers explanations (if necessary, then also repeatedly) to a person in a language understood by them and informs them what materials they can access (e.g. translations of legislation into foreign languages). Cooperation by a convicted or remand prisoner with the prison is also important. A convicted or remand prisoner must accept the fact that prison officers might not know their mother tongue, and they might try to communicate with prison officers in the state language or in a language understood by both, and to do so politely and kindly.

The prison should ensure that prison rules of procedure and their explanatory memorandum are easily accessible to convicted and remand prisoners in the foreign languages most widely used in the prison (e.g. on computers adjusted for use by convicted and remand prisoners).

5. Library

In its reply of 8 March 2022 No 10-2/2998, the Ministry of Justice asserted that reorganisation of the library service had not reduced access to the service but that the change had actually improved it.

Information collected during the inspection visit does not affirm this. A large number of convicted and remand prisoners complained during interviews that the choice of available books in their unit was poor. People said that they had read books available in their unit several times, some of the books were uninteresting for them or were in a foreign language, and the selection of books had not been renewed for several months. Convicted and remand prisoners found that, after the library reorganisation, books were no longer as easily accessible as before. The choice can be made only among books available in a particular unit and it is not possible to borrow books or other publications from other units. People are not informed what new books have arrived in the prison or what literature has been ordered, when these books would reach their unit or how they can be borrowed.

A similar situation existed in Tartu Prison in 2020; I dealt with it in the summary of the inspection visit to Tartu Prison (see para. 7). The experience at Viru Prison also shows that reorganising the work of the prison library has not improved people's access to books. Bringing books into units would have been a good idea if readers had also maintained the possibility to easily borrow books in the general list and books not presently available on the shelves in the prisoner's unit, and participate in activities previously offered by the library as hobby and other activities supporting reintegration into society.

However, reorganisation of the library has created a situation where the choice of books is more limited than before. Elimination of the integrated library means less variety for prisoners, and also loss of an environment conducive to sustaining people's interest and development and is thus

counterproductive to the objective of imprisonment under § 6 of the Imprisonment Act. I repeat my earlier recommendation.

In cooperation with the Ministry of Justice, the prison should consider the possibility of restoring the prison library in its previous form or at least offering a library service on the same level as was the case to the end of 2019.

6. Food

A large number of convicted and remand prisoners claimed during interviews that the food offered by the prison was satisfactory in terms of quality and taste but was insufficient. In their opinion, the interval between supper and breakfast was too long. In particular, minors and young prisoners complained that late in the evening and early in the morning they often felt hungry.

On 21 October 2021 the Chancellor's advisers tried the lunch offered to convicted and remand prisoners and found the quality and quantity of the food to be satisfactory. Unfortunately, the advisers could not experience whether and to what extent prisoners' claims about an over-long interval between supper and breakfast, so that some people often have to suffer from an empty stomach, were true.

According to the daily schedules of different units laid down by the rules of procedure of Viru Prison, there is a 14-hour interval between supper (at 17.05–17.45) and breakfast (at 06.15–07.50) served to convicted and remand prisoners. It is plausible that someone may feel hungry if they cannot buy additional food from the prison shop due to lack of money or for some other reason (e.g. a person is serving a disciplinary confinement punishment and their right to do shopping is restricted). An over-long interval between meals has also been criticised by the CPT, for example, in a report sent to Ireland in 2020 (para. 67) and in a report sent to the United Kingdom in 2020 (paras 140–141) and the CPT has suggested providing prisoners with an additional snack later in the evening.

Prisoners at Viru Prison also addressed the Chancellor with a similar concern during the inspection visit carried out in 2014. I repeat my earlier recommendation.

Considering the long interval between supper and breakfast, if possible the prison should offer food with a higher calorific value for supper or an additional light snack after supper. And in this respect special attention should be paid to provision of food to minors and young people.

7. Communication outside the prison

Convicted and remand prisoners in Viru Prison have the same concerns with communication outside the prison as those described in the summary of the inspection visit to Tartu Prison in 2020. Thus, the conclusions presented in that summary also apply to Viru Prison.

I repeat my earlier recommendations and note once again that, as can be seen from the experience of other countries, potential security risks arising from updating communication options for convicted and remand prisoners can be successfully handled. In addition to the examples provided earlier, for instance, in some prisons in Finland, dealings between prisoners and the prison (e.g. submitting applications, registering for a doctor's appointment, planning visits, using the prison

shop, and the like) take place via computer terminals. And prisoners can also maintain contact with their family and next of kin, as well as with the community, via a computer.[7]

The feasibility of safe use of computers is also proved by the extremely limited access to the internet imposed in Estonian prisons for accessing legislation and court decisions, and the possibility to communicate with the court via video conferencing. By nature, video calls would not be different from a short-term visit through a barrier, which the prison may organise under supervision of a prison service officer (§ 31(1) Internal Prison Rules). Video calls would involve the same potential risks as entailed in use of the telephone today, which prisons have been able to handle successfully. When arranging phone calls the prison can check what phone number a convicted or remand prisoner is calling. However, the prison cannot be certain that the person answering the call or a person involved in the call in the course of its duration is definitely the one whom the prisoner claimed to be calling. The content of messages transmitted via the telephone may, under § 29(2) of the Imprisonment Act, only be examined on the bases and according to the procedure laid down by Chapter 3^1 of the Code of Criminal Procedure and Subchapter 3^1 of Chapter 2 of the Imprisonment Act.

The Ministry of Justice should take steps to allow prisoners and their families and children to communicate via a video link. The Ministry of Justice should analyse whether the current law enables video visits to be organised, and if not, then quickly prepare the necessary legislative amendments.

The prison should facilitate prisoners' contact with their family and children and, in cooperation with the Ministry of Justice, review the fee for long-term visits. The Ministry of Justice should assess the compatibility of § 41^1 of the Internal Prison Rules with § 23 of the Imprisonment Act.

8. Young people

It is commendable that, in work with minors and young people, an attempt is made to establish good contact and, instead of punishment, preference is given to motivational measures to guide their behaviour. Minors and young people highly appreciated the possibility of home visits in the frame of the motivational system. An attempt has been made to introduce design elements (e.g. a cork board) in the cells of minors and young people, enabling them to make their cells more personalised. This is a positive step forward.

However, the furnishings and state of repair of the communal rooms of minors and young people had not significantly changed as compared to 2018. Rule 32 of the Havana Rules states that the design and physical environment of detention facilities for juveniles should be in keeping with the rehabilitative aim. To that effect, the prison should make young people's communal rooms cosier and more appealing. Communal rooms should, as much as possible, remind young people of life at liberty, support interaction of young people with prison officers and with each other; in addition, for example, young people could also be allowed to eat there communally (see e.g. the CPT's report sent to Ireland in 2020, para. 67; the report sent to the United Kingdom in 2020, para. 141). To increase cosiness, walls in communal rooms should be painted, decorated with murals or pictures hung on the walls, or the like; more furniture as well as furniture in better condition and more appealing to young people (e.g. bean-bags) should be acquired, etc.

[7] See e.g. P. Puolakka „Smart Prison Facility Spurs Rehabilitation in Finland", Correctional News, 3 November 2021.

Minors and young people participating in interviews were unable to say how and in what decision-making the prison had involved or was involving them. Young people noted that several of the benefits acquired in the frame of the motivational system – such as watching films or playing video games – would have a greater effect if the prison were to acquire new films once in a while and would ask young people themselves what they would like to watch and play. The same applies to hobby groups, which young people believe could be chosen more in line with their own interests. Young people found that the prison had a formal approach to conflicts arising between young people themselves and with prison officers: for instance, a young person is deprived of points under the motivational system but no substantive discussion or conciliation between the parties is arranged.

In the work of the unit for minors and young people, elements of dynamic security can be seen which have yielded positive results: the atmosphere is calmer as compared to previous years, no or only very few incidents of arson, flooding or physical conflicts occur. Interaction with minors and young people could be made even more meaningful if young people could participate more in decision-making related to their everyday life – this may concern the motivational system, living conditions, hobby activities, and the like. It is understandable that young people's wishes cannot always be taken into account in prison. Nevertheless, involvement of young people must take place so that they feel that their opinion matters to the prison.

If the prison in its everyday work were to use methods based on restorative justice, this would also be conducive to creating and maintaining a good internal atmosphere (including prevention of new conflicts and violations), as well as supporting reintegration of minors and young people into society.[8] Outside the prison, and especially in work with minors and young people, special attention is paid to precisely these kinds of solutions and less to solutions based on punishment.[9] The Social Insurance Board has the competence to provide a restorative justice service and training – even now it offers restorative justice training for employees of closed childcare institutions.

Measures based on restorative justice must also reach a prison where minors and young persons are detained who have committed the most serious offences and who need most effective approaches for reintegration into society. Use of restorative justice in work with minors and young people has also been praised by the CPT (e.g. in the report sent to Spain in 2021, paras 177, 181).

The prison should make communal rooms for minors and young people cosier and more appealing. Young people should be more involved in decisions that concern them (including their everyday life). Methods based on restorative justice should be integrated in work with minors and young people. To that effect, the prison in cooperation with the Ministry of Justice and the Social Insurance Board should look for possibilities to train officers and specialists working with minors and young people.

9. Officers

Despite efforts undertaken by the prison, the number of vacancies is still very high. In some units, approximately half of the staff positions were vacant during the inspection visit. The situation has not changed as compared to 2018. On the contrary, absence of officers from work due to falling ill with Covid-19 has made the situation even more critical.

[8] See e.g. CoE, Restorative Justice in Prisons: Methods, Approaches and Effectiveness, 2014, pp 12-14.
[9] See e.g. the Ministry of Justice, "Avaneb taastava õiguse taotlusvoor, mis aitab toetada tööd noorte õigusrikkujatega" (A call for tenders for restorative justice to be issued to support work with young offenders), 14 September 2020.

Convicted and remand prisoners said that due to the shortage of officers they only rarely have contact with them (e.g. during roll-call and food serving), resolving even simple everyday issues requires a long time, official dealings (including replying to enquiries) are delayed, getting an appointment with an inspector-contact person is complicated, and officers are tired and exhausted.

Officers admitted that their workload was extremely heavy, priority is given to dealing with urgent issues and no time or energy is left for longer and more meaningful interaction with people. While touring the prison units the Chancellor's advisers also noticed only a few officers moving about, and guard rooms in many sections were empty.

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

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

10. The medical department

The psychiatrist involved in the inspection visit as healthcare expert noted that the medical department also had a number of vacancies. This means that assistance to convicted and remand prisoners is not as accessible as it should be (e.g. replying to enquiries from prisoners, waiting times for appointments, frequency of repeat consultations). In the expert's opinion, the number of nurses is sufficient: they do 24-hour shifts (which, however, is mostly not acceptable in mainstream healthcare) and during the daytime at least two nurses are present at the prison.

According to the expert's assessment, the quality of psychiatric care offered by a non-specialised doctor may be considered good (both in terms of treatment interventions and consistency) but problems exist with accessibility of mental health services. Viru Prison has a contract with a child and youth psychiatrist working with a small load, but the positions of psychiatrist and mental health nurse are vacant. According to the expert's assessment, a penal institution of the size of Viru Prison should have its own mental health team: a psychiatrist (for young people, a psychiatrist with competence in children and young people is also needed), mental health nurses (advisably more than one), and a clinical psychologist. The number of mental health nurses and psychologists should be higher for units that need more attention (for example, accommodating prisoners with problematic behaviour).

It is not easy for the prison to find psychiatrists, mental health nurses or clinical psychologists. However, outsourcing the service as one-off visits from a nearby psychiatric clinic – as has been

noted in the staff table of Viru Prison – is not a sustainable solution. Mental health services cannot be founded on occasional one-off consultations. They need consistent organisation of diagnostics and treatment as well as a team-based approach. Examination of medical documents of several cases revealed that patients with psychiatric complaints were taken for consultation to Ahtme Hospital, but the result was only a one-off change in the treatment scheme which, however, proved to be ineffective in the light of the subsequent disease dynamics.

The expert found that one possible solution would be to create an inter-prison psychiatric team. Such a team could offer advice to on-site non-specialised doctors and nurses either online or via a video link. Probably it would be easiest to form this team at the psychiatric department at Tartu Prison, by hiring additional staff there. Viru Prison definitely needs the assistance of on-site mental health nurses who would support non-specialised doctors and nurses.

The healthcare expert also emphasised that all medicines, and in particular psychiatric and neurological medicines, should be given by a medical professional. This ensures compliance with pharmacovigilance requirements and confidentiality of patient data. The CPT had already criticised Estonia for the practice of distributing medication in the report sent in 2014 (para. 82) and most recently criticised Tartu Prison in the report of 2019 (para. 60).

I made recommendations on distribution of medicines in the summary of an inspection visit to Tartu Prison in 2020, and these opinions and their underlying reasoning are also well known to Viru Prison. I repeat my earlier recommendations.

I ask Viru Prison to take the healthcare expert's opinion and recommendations into account. The prison should take steps to fill vacant positions in the medical department and improve accessibility of mental health services for prisoners. The prison should reorganise dispensing of medication prescribed by a doctor to convicted and remand prisoners so that medicines are given only by healthcare professionals. Where necessary, the Ministry of Justice should prepare the required legislative amendments.

I expect feedback from Viru Prison and the Ministry of Justice to the recommendations by 30 October 2022.

Ülle Madise

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