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Inspection visit to short-term detention facilities of the South Prefecture's Border Guard Bureau

One of the tasks of the Chancellor of Justice is to carry out regular supervision of places of detention (§ 1(7) and § 27 of the Chancellor of Justice Act, Article 3 of the [Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#)). To fulfil this task, the Chancellor of Justice carries out inspection visits which take place mostly without an advance notice or sometimes also at a time previously agreed with the place of detention.

On 17 October 2022, the Chancellor's advisers inspected without an advance notice the cells used for short-term detention (up to 48 hours) in the buildings of the border guard bureau of the South Prefecture of the Police and Border Guard Board (PBGB). Visits were carried out to Koidula road border crossing point, Koidula railway border crossing point, Luhamaa road border crossing point, Väraska, Saatse and Piusa border guard stations, and Luhamaa service of Piusa border guard station (former Luhamaa border guard station). Previously, the Chancellor inspected the buildings of the PBGB border guard bureau [in 2009](#). The PBGB observed the recommendations given after that inspection visit when drawing up its operational guidelines.

The inspection visit of 17 October revealed that no cells for detaining people exist in Saatse border guard station. Two cells in Koidula railway border crossing point and two cells in Luhamaa service of Piusa border guard station have not been used to detain people for quite some time. According to the locally kept detention registers, one cell in Koidula road border crossing point and one cell in Väraska border guard station were most recently used in 2019. Two cells in Luhamaa road border crossing point were used on three occasions during the period from 1 January to 17 October 2022 and people stayed in the cells only for a few hours. Two cells in Piusa border guard station were used on five occasions during the same period. People stayed in the cells for less than 24 hours.

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No detainees were present in any of the cells during the inspection visit. The Chancellor's advisers inspected the conditions in the cells, examined documents and talked with PBGB officers.

It is commendable that, in line with the Chancellor's recommendation of 3 June 2022 [No 7-4/220476/2203023](#), border crossing points and border guard stations have acquired a stock of clothes and footwear which can be given to people detained at the border in case of need. PBGB officers explained that, if necessary, belongings of detainees can be dried in drying cupboards in the buildings of the border guard bureau.

Border crossing points and border guard stations had also thought about the provision of food for detainees. However, unfortunately the best before date of several of the food parcels in Saatse border guard station and all of the food parcels Piusa border guard station had passed almost half a year ago. It is important that the shelf life of the foodstuffs given to people should not have expired.

It should also be observed that a detained person should be able to use the toilet. For this, the sanitary facilities must be in working order. This was not the case in Väraska border guard station.

CCTV has been installed in the cells inspected. However, constant video surveillance might not always be appropriate in terms of a person's privacy. Therefore, it should always be considered whether video surveillance is unavoidably necessary in the case of each person (e.g. due to their health condition) and decided whether and to what extent it might be used in the particular case (see e.g. the Chancellor's recommendation of 7 January 2020 concerning the police jails of Valga and Võru police station [No 7-7/191818/2000076](#)).

PBGB officers explained that steps taken to ascertain whether someone meets the conditions for entry into the country ([§ 11\(2\)](#) State Borders Act), or ascertaining whether a person wishes to apply for or is in need of international protection ([§ 14\(3¹\)](#) Act on Granting International Protection to Aliens), may take time. In one of the cases the Chancellor is aware of, and confirmed by the PBGB, a person arrived at Koidula border crossing point at night and spent approximately 17 hours in the terminal of the border crossing point. During this time, they had no possibility to lie down but could only sit on the bench in the border control terminal. About nine hours after the person's arrival, they were offered half a litre of bottled water, potato crisps, nuts and chocolate. No more food was provided to the person. Another person contacting the Chancellor described how they had been waiting with three children (the youngest child being 2.5 years old) for almost five hours at Luhamaa border crossing point without any food or anything to drink having been offered to them or the children.

I ask the PBGB officers to be reminded that, even if a person is present at the border and is waiting, for example, for a permission to enter the country, they are within the sphere of influence of the authorities and are *de facto* detained (see also the Chancellor's opinion of 21 January 2022 [No 7-7/212357/2200435](#)). In that case, too, officers must ensure that the basic needs of the person wishing to cross the border are met.¹ This may mean that the person should be offered food and something to drink, an opportunity to use the toilet, to lie down and have a rest, and, if necessary,

¹ See e.g. OHCHR, [Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations](#), page 29, p 5.4; UNCCT, [On human rights and screening in border security and management](#), page 17.

receive medical assistance, and the like. Particular attention should be paid to people in a vulnerable situation: children, pregnant women, people with special needs, older people, etc. For example, at the time of the inspection visit, waiting rooms had been adjusted for recipients of temporary protection at Koidula and Luhamaa border crossing points where it was possible to stay overnight, with a stock of clothes and footwear, where people were offered food and something to drink, and where children could play. These kinds of solutions should also be followed when treating all the other persons crossing the border.

I ask for your feedback on the recommendations by 24 March 2023.

Yours sincerely,

/ signed digitally/

Ülle Madise

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