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20.10.2022 nr 9-2/221478/2205452

Opinion in constitutional review case No 3-18-477

Dear Chairman of the Supreme Court,

You asked for an opinion whether the first sentence of § 31[1] of the Imprisonment Act is compatible with the Constitution of the Republic of Estonia. In addition to an overall assessment, you also asked for considerations as to what risks and expenses might arise from granting prisoners broader access to websites of state agencies.

I find that § 31[1] of the Imprisonment Act is contrary to § 44 of the Constitution to the extent that it does not enable access to the websites of the Supreme Court and *Ametlikud Teadaanded* (the website publishing official notices). More broadly, § 31[1] of the Imprisonment Act also excessively restricts the fundamental rights laid down by § 27(1) and the first sentence of § 37 of the Constitution.

The security of society is an extremely compelling value but restricting access to the disputed websites in order to achieve it is not a proportionate measure. Modern technology enables rather effectively mitigating threats arising from use of the internet by prisoners. This is affirmed by experience in other countries as well as practice in Estonian prisons: prisoners have been granted extremely limited access to websites, enabling them access to legislation and court decisions (§ 31[1] of the Imprisonment Act) and a possibility to participate in court hearings via video conferencing. Legislation has also considered it possible to create secure technical online solutions in prison.

Information published on the disputed websites reflects the activities of state agencies and is intended for general use. Everyone is entitled to obtain such information. Newspapers, television and radio channels available in prison mostly offer daily news and recreation. These channels offer no or only very limited information about what is available on the disputed websites. Nowadays, websites are the main channel through which state agencies provide information to the public.

Asking for information by submitting a request for information is not easy or effective for prisoners and may entail significant financial expense for them. And for agencies complying with requests for information (either orally or in writing) it may become excessively burdensome. It is also burdensome on prisons because prison officers (of whom there is a great shortage in prisons) must often serve as intermediaries of information and cannot therefore focus on their main work: supporting, guiding and counselling prisoners.

Access to information on the disputed websites (as well as websites of other state and local government agencies) enables prisoners to keep abreast of life outside the prison, and information published on these websites helps them understand what is happening in society and provides them with knowledge and skills necessary for coping in today's digital society. Thus, access to such information supports the objective of imprisonment as set out in § 6 subsection (1) of the Imprisonment Act, i.e. to facilitate a prisoner's reintegration into society, a smooth return to liberty and a law-abiding life. This helps to reduce the likelihood of reoffending and costs of imprisonment.

Section 31^1 of the Imprisonment Act also excessively restricts the fundamental right of a prisoner (as well as that of their next of kin and in particular children) to protection of family life (§ 27(1) Constitution) because it precludes the possibility of communication with next of kin via video calls. The lack of access to today's habitual means of communication does not contribute to maintaining relationships between prisoners and their next of kin, thus failing to support reintegration, which is one of the main objectives of imprisonment nowadays. The restriction also has a significant impact on the rights of children as it impedes a child from exercising their right to regular contact with a parent who is in prison.

Section 31^1 of the Imprisonment Act is contrary to § 37 of the Constitution because it does not enable acquisition of proper general education in prison conditions. A mandatory part of general education includes developing the learner's digital skills and improving their motivation and skills as well as developing the independence necessary for lifelong learning. Because of the restriction under § 31^1 of the Imprisonment Act, prisoners might also not be able to begin or continue their education in higher educational institutions (for example, in the form of e-learning).

Creating secure access to the disputed websites as well as in general to the internet in prison entails costs. However, failure to incur those costs may actually reduce security in society. Digital deprivation of people in prison increases the divide between them and society. This also leads to risks for the safety of society. It should be taken into account that society must bear the costs of repeated imprisonment of offenders. Prison security may also be endangered because readiness by people in prison to cooperate is significantly reduced due to stress caused by lack of information and communication and scarcity of meaningful activities. This may cause defiant and aggressive behaviour and endanger the life and health of fellow inmates as well as that of prison officers.

1. Compatibility of § 31^1 of the Imprisonment Act with § 44(1) of the Constitution

Restricting access to the internet does not enable the applicant to access information contained on the disputed websites. Therefore, § 31^1 of the Imprisonment Act primarily interferes with everyone's right under § 44(1) of the Constitution to freely receive information disseminated for public use.

The purpose of the restriction is to prevent potential risks to the security of society resulting from misuse of the internet (e.g. threatening victims and witnesses through social networks, committing new crimes, planning an escape, etc) and thereby to ensure the rights and freedoms of others. Thus, the restriction laid down by § 31[1] of the Imprisonment Act has a legitimate objective. Security of society is an extremely compelling value.

The duty to disclose information on the disputed websites is laid down by laws (§ 31 subsection (1) Public Information Act, § 13 subsections (1) and (2) Riigi Teataja Act). These websites contain information intended for general use, the information is created and verified by state agencies and presumably does not violate the rights of persons or prejudice the interests of the state. I agree with the position expressed by the Supreme Court Administrative Law Chamber (case No 3-18-477) that making such information available for people in prison does not harm the security of society (para. 42). On the contrary, access to this information (as well as information on websites of other state and local government agencies) strengthens the connection of people in prison with the world outside and helps them to keep informed of what is happening in society and provides them with the necessary knowledge and skills to cope in today's digital environment. Thus, access to such information supports the objective of imprisonment as set out in § 6 subsection (1) of the Imprisonment Act, i.e. to facilitate a prisoner's reintegration into society, a smooth return to liberty and a law-abiding life while at liberty. Prevention of reoffending directly affects the security of society and reduces the costs of imprisonment.

The issue of access to the internet has also been assessed by the European Court of Human Rights (ECtHR). In the case of Jankovskis *v.* Lithuania the Court found that visiting the website of the particular state institution would support the applicant's reintegration into society, and materialisation of the security risk arising from such access is unlikely (paras 59−62). When resolving complaints by prisoners the ECtHR has also cited the principle contained in Rule 5 of the recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe on European Prison Rules (EPR), according to which prisons are tasked with trying to create an environment which is as close as possible to normal life in the community (following the so-called principle of normalcy), which helps to facilitate people's successful reintegration into society (the objective set out in Rule 6 of the EPR; see e.g. Khoroshenko *v.* Russia, paras 58 and 60; Stummer *v.* Austria, para. 55). In the EPR Commentary it is conceded that life in prison can never be the same as life in a free society. However, it should be kept in mind that people in prison will eventually return to society, so that steps need to be taken to make conditions in prison as similar to normal life as possible. This concerns not only living conditions in prison but also the extent to which a person in prison can exercise their rights.[1] A similar principle is also set out in Rule 5.1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

According to Eurostat data from 2021, 92 per cent of households in Estonia have an internet connection. According to the 2021 data from Statistics Estonia, over 90 per cent of Estonian inhabitants use information and communication technology (ICT). Thus, ICT is a natural part of

[1] P. Scharff Smith, Imprisonment and internet-access: Human rights, the principle of normalization and the question of prisoners access to digital communications technology, Nordic Journal of Human Rights Vol. 30(4), 2012, pp 462−463.

today's society in Estonia, affecting almost all areas of life: finding information, access to services, education, employment, communication, etc. Skills related to information and communication technology are compared to other skills necessary for coping in society, such as literacy and numeracy skills.[2] Digital deprivation (just like low income, unemployment, poor education, ill health and broken social ties) is considered an important risk factor in terms of social exclusion.[3] Technological and digital exclusion of prisoners, in turn, leads to even more exclusion because people often already enter a prison with insufficient knowledge and skills and exit prison with even more limited knowledge and skills.[4]

Therefore, striving towards normal life in prison and achieving one of the main objectives of modern imprisonment – a person's reintegration into society – is almost impossible without taking into account the level of digitalisation in society. The significant role of the internet in people's daily lives and the fact that internet access is increasingly spoken of as everyone's right has also been underscored by the ECtHR on several occasions (Kalda *v.* Estonia (para. 52), Jankovskis *v.* Lithuania (para. 62)).

The right to receive information – i.e. its mono-directionality, where a prisoner is a 'passive' recipient – has been recognised in the case of traditional sources of information such as radio, television and newspapers (§§ 30 and 31 Imprisonment Act).[5] Information obtained through newspapers, television and radio channels accessible in prison mostly consists of daily news and recreation. However, these channels offer no or only very limited information that is available on the disputed websites. Nowadays, websites are the main channel through which state agencies provide information to the public.

It is not insignificant that often in actuality newspapers reach prisoners seldom and after considerable delay.[6] Prisoners can watch television programmes from a television set placed in a communal room. In their own cell, television can also be watched by those who have money to buy a television set and pay for using it (electricity) (§ 59[1] Internal Prison Rules). The prison must also grant permission for a prisoner wishing to have a television set in their cell (§ 31 subsection (2) Imprisonment Act). However, most people in closed cells (including remand prisoners) must be satisfied with information received through radio channels available via the built-in terminals in the cells and through an occasional newspaper reaching them.

Under § 44(2) of the Constitution, people are entitled to receive information from state agencies as well as local authorities. Asking for information by submitting a request for information is not easy or effective for prisoners and may also entail significant financial expense. Submitting a request for information both by telephone or letter presumes that the prisoner has money for this

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[2] See e.g. Government of the Republic Regulation of 6 January 2011 No 1 on "The basic school national curriculum " § 1(6) clause 7 and § 4(4) clause 8; Government of the Republic Regulation of 6 January 2011 No 2 "The upper secondary school national curriculum" § 4(3) clause 8.

[3] E. Helsper, Digital inclusion: an analysis of social disadvantage and the information society, Oxford Internet Institute, 2008, pp 8 and 58.

[4] R. O'Brien, The Learning Prison, 2010, pp 56−57; Y. Jewkes, H. Johnston. 'Cavemen in an Era of Speed-Light Technology': Historical and Contemporary Perspectives on Communication within Prison. The Howard Journal, Vol. 48/2 (2009), pp 132−141.

[5] G. Pillera, E-literacy and access to Internet as inmate's right: European ICT frameworks in correctional education, ICERI2015 Proceedings, 2015.

[6] See e.g. the summary of the Chancellor's 2022 inspection visit to Tallinn Prison (page 7).

(§ 28 subsection (2) Imprisonment Act, except in cases laid down by § 47 of the Internal Prison Rules). First ascertaining what information is available on a state agency's website and what the person wishes to access may take a lot of telephone time and the person must exchange several letters with the agency. A justified question arises whether in that case a person is not given the runaround, which is not really befitting for a country with a functioning e-government system. Submission of requests for information may also place a person in prison into a situation where they have to choose whether to spend money in accessing information otherwise intended for public use or, for instance, for maintaining phone contact with their next of kin and children and meeting with them, or also for buying hygiene products.

On the other hand, providing an overview of information available on a website may also be burdensome for an agency. It should be taken into account that a holder of information is not required to read out documents (§ 17 subsection (6) Public Information Act). A holder of information may also decline to provide information orally if this requires excessive time and hinders performance of the main functions of the holder of information (§ 23 subsection (2) clause 3 Public Information Act). For information released on paper, a person making a request for information must pay for every additional page starting from the 21st page (§ 25 subsection (2) Public Information Act). Obtaining information may also be hindered by the weight limit imposed on belongings of a person in prison, which might not enable receiving or storing all the print-outs (§ 57 subsection (3) Internal Prison Rules). Moreover, prison officers (of whom there is a great shortage in prisons)[7] must often serve as intermediaries of information for people in prison and do not therefore have enough time left to focus on their main work: supporting, guiding and counselling prisoners.

The potential risks entailed in the use of information and communication technology are indeed real, but they can be effectively tackled with the help of modern technology. This is also proved by how Estonian prisons implement the extremely restricted access to the internet laid down by § 31^1 of the Imprisonment Act, which only enables access to legislation and court decisions and a possibility to participate in court hearings via video conferencing. Creating secure technical online solutions in prison has also been considered as possible in legislation. Proof of this is a provision (§ 48 subsection (3) Imprisonment Act) entering into force recently and regulating shopping by prisoners via online solutions.

Materials describing the experiences of other countries point out that the potential risks involved in use of the internet can be mitigated by using secure computer terminals where inmates have no possibility to access USB ports. It has also been considered possible to block different functions: e.g. downloading, saving and sharing software and files. Communication options and links to communication environments on websites have been deactivated and searching certain sensitive keywords or phrases in a search engine excluded. Using information and communication technology is personalised and possible misuse is monitored through regularly stored tracks, while attempts to breach the firewall are detected by alert messages.[8]

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[7] See the summary of the Chancellor's 2021 inspection visit to Viru Prison (page 9) and the summary of the 2022 inspection visit to Tallinn Prison (page 8).

[8] Office of Inspector of Custodial Services, The Digital Divide: Access to digital technology for people in custody, 2018, pp 2–3; N. Champion, K. Edgar, Through the Gateway: How computers can transform rehabilitation, Prison Reform Trust, 2013, p 6.

It is possible to create a list of cleared websites (a so-called whitelist) which a prisoner may access. According to the data available to the Chancellor, for example, as at 2017 in Lithuanian prisons it was possible to visit the websites of 110 institutions and by now the list has grown even more. The relevant list in Finnish prisons also includes several hundred websites.[9] Based on the information available to the Chancellor, access to the internet under certain conditions and in a controlled environment is also ensured, for instance, in Latvia, Sweden, Norway, Denmark, Belgium, Austria, England, and Spain.[10]

Creating secure access in prison to the disputed websites as well as to the internet in general entails costs. However, failure to incur those costs may actually reduce security in society. Digital deprivation of people in prison increases the divide between them and society and may contribute to commission of new crimes. It should be taken into account that society must bear the costs of repeated imprisonment of offenders.

Prison security may also be endangered because the readiness of people in prison to cooperate is significantly reduced due to stress caused by lack of information and communication and scarcity of meaningful activities. This may cause defiant and aggressive behaviour and endanger the life and health of fellow inmates as well as that of prison officers. Studies have found that use of information and communication technology reduces violence in prison and improves the internal prison atmosphere.[11]

For the above reasons, the restriction on use of the internet imposed by § 31[1] of the Imprisonment Act, insofar as it does not enable access to the disputed websites, is not proportional in the narrow sense and is thus incompatible with § 44(1) of the Constitution.

2. Compatibility of § 31[1] of the Imprisonment Act with § 27(1) of the Constitution

Section 31[1] of the Imprisonment Act also excessively restricts the fundamental right of a person in prison (as well as that of their next of kin and in particular children) to protection of family life under § 27(1) of the Constitution since it precludes the possibility to make video calls.

The shared life of a person in prison with their next of kin and children is inevitably restricted but under the Constitution such interference with family life is justified (second sentence of § 26 of the Constitution). However, under § 27(1) of the Constitution, a person in prison and their next of kin and children are entitled to positive steps by the state that would help them to lead a family life as fully as possible. The Imprisonment Act also states that the prison facilitates contact between a prisoner and their next of kin (§ 23 Imprisonment Act).

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[9] P. Puolakka, Towards digitalisation of prisons: Finland's Smart Prison Project, Penal Reform International, 2021.
[10] See also E. S. Baldursson, V. Karsikas, K. Kuivajärvi, Nordic Prison Education – A Lifelong Learning Perspective, 2009; The Center for Social Justice, Digital Technology in prisons. Unlocking relationships, learning and skills in UK prisons, 2021, pp 8-12; K. Opaas Haugli, E. M. Toreld, A. L. Svalastog, Maintaining normality when serving a prison sentence in the digital society, Croatian Medical Journal, 2018, pp 335–339; Prisoner Learning Alliance, The digital divide. Lessons from prisons abroad, 2020; A. Kerr, M. Willis, Prisoner use of information and communications technology, Australian Institute of Criminology, No 560, 2018.
[11] C. McDougall, D. A. S. Pearson, D. J. Torgerson, M. Garcia-Reyes, The effect of digital technology on prisoner behavior and reoffending: a natural stepped-wedge design, Journal of Experimental Criminology, Vol 13, 2017, pp 455–482.

Meetings with family and children help a prisoner to cope better with imprisonment. They alleviate stress, improve motivation, and are thus in the interests of a prisoner's health and well-being. Meetings are also important for a prisoner's family and in particular children.

Since today's habitual possibilities to communicate are absent in prison, it is also not easy to maintain relationships between people in prison and their next of kin. This, in turn, is counterproductive to one of the main objectives of imprisonment – reintegrating a person into society. This restriction also affects the rights of children since it does not facilitate, but rather impedes, a child in exercising their right to regular contact with a parent who is in prison (Article 3 Convention on the Rights of the Child and § 143 subsection (1) Family Law Act).

As far back as 2015, the Chancellor recommended to the Ministry of Justice that a possibility should be created for prisoners to also communicate with their next of kin via video calls (via Skype or another similar program). The need for an additional means of communication sharply arose during the restrictions imposed for combating the spread of the SARS-CoV-2 virus.

Communicating via a video link is not, in terms of its form, essentially different from the current short-term visits which usually take place through a glass partition (§ 31 subsection (2) Internal Prison Rules. Video calls enable meetings between a prisoner and their next of kin and children who, for some reason (e.g. the family lives far from the prison or even abroad), cannot go for a visit to the prison at all or not sufficiently often. People might also not have enough money to visit their next of kin in prison. It is in any case difficult for elderly or disabled next of kin or parents with small children to travel a long distance for a visit. Next of kin may also be busy with work, studies or other activities.

Through a video call, a prisoner could enjoy greater contact, for instance, with the home; or – if a prisoner's child is in a substitute home or their elderly parent in a care home – then with their living environment, etc. This, in turn, facilitates maintenance of good relationships between a prisoner and their next of kin or contributes to the emergence of such relationships. During the visit, a prisoner could also communicate simultaneously with more family members than provided for under § 31 subsection (3) of the Internal Prison Rules and enabled by premises used for short-term visits in prisons. This kind of communication would ease prison officers' burden related to reception, escorting, control, etc, of visitors.

The importance of video calls was also emphasised in the WHO guidance of 15 March 2020 (para. 12.5), the principles of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of 20 March 2020 (para. 7), and the advice published by the UN Subcommittee on Prevention of Torture (SPT) on 25 March 2020 (para. 11). The guidelines provided in the recommendation CM/Rec(2018)5 of the Committee of Ministers of the Council of Europe regarding children coming to prison also mention video meetings as an important means of communication for prisoners and their children (para. 25). The CPT has stressed that this channel of communication must be created in prison and, where necessary, laws should be amended to that effect (see the 2019 report to Romania (para. 144), the 2019 report to Norway (para. 102), the 2020 report to Italy (para. 80) and the 2020 report to Greece, para. 74).

According to the information available to the Chancellor of Justice, in many European countries (Moldova, Bulgaria, Spain, Kosovo, Finland, Great Britain, Latvia, Cyprus, Malta, Norway,

Albania, Iceland, Italy, Austria, Belarus, Belgium, Croatia, Hungary, Azerbaijan, Denmark, Sweden, Finland, Lithuania, and others) communicating with family and children via video calls was customary even before – or this possibility was established during – the Covid-19 crisis.[12] At the same time, in Estonia the possibilities for communication between a person in prison and their next of kin and children are still limited to old-fashioned technical solutions (telephone, letter).

The example of other countries shows that safe use of information and communication technology for video meetings is feasible. This is also proved, for example, by an instance where Tartu Prison organised a video meeting for a prisoner who due to their special need and restrictions imposed on visits had no other option to communicate with their next of kin. The prison affirmed that the video call could be securely arranged via the Skype for Business program used in the prison and that such a meeting did not require particular preparation, expense or upgrading of technical possibilities.[13] Creating secure technical online solutions for video meetings has also been considered possible in legislation.

For the above reasons, the restriction on use of the internet imposed by § 31^1 of the Imprisonment Act, insofar as it does not enable video calls between prisoners and their next of kin and children, is not compatible with § 27(1) of the Constitution.

3. Compatibility of § 31^1 of the Imprisonment Act with the first sentence of § 37 of the Constitution

Section § 31^1 of the Imprisonment Act, is contrary to the first sentence of § 37 of the Constitution because it does not enable acquisition of proper general education in prison conditions. A mandatory part of general education includes developing the learner's digital skills and improving their motivation and skills as well as developing the independence necessary for lifelong learning. Because of the restriction under § 31^1 of the Imprisonment Act, prisoners are unable to begin or continue their education in higher educational institutions (for example, in the form of e-learning).

Under the first sentence of § 37 of the Constitution and Article 14.1 of the Charter of Fundamental Rights of the European Union everyone has the right to education. Article 2 of the First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms emphasises that no one shall be denied a right to education.

The Council of the European Union in its Resolution on a renewed European agenda for adult learning asked member States to focus on enabling education in prisons and implementing a modern approach to learning (Annex, para. 3). The same recommendation to States was made by the UN Special Rapporteur on the right to education in his report dealing with the right of people in prison to education.

Under Rule 4.2 of the Mandela Rules, offering education, vocational training and work to prisoners must take into account their individual needs. Under Rule 28.1 of the European Prison Rules, every prisoner must be ensured access to comprehensive educational programmes which meet their individual needs and aspirations. Thus, in addition to basic school, upper secondary school and

[12] See also https://www.prison-insider.com.
[13] See e.g. the summary of the Chancellor's 2020 inspection visit to Tartu Prison.

vocational education, possibilities should be offered to acquire higher education for those prisoners possessing the necessary level of education for this.[14] The ECtHR has also considered it important to have a possibility to continue one's education in prison, including higher education (see Mehmet Reşit Arslan and Orhan Bingöl *v.* Turkey, paras 58–59).

The objective of providing an opportunity for prisoners to acquire education is to ensure that prisoners have adequate knowledge, skills and ethical principles which would allow them to continue their education and work after release (§ 34 subsection (1) Imprisonment Act). Thus, acquiring education should help to achieve the objective laid down in § 6 subsection (1) of the Imprisonment Act to direct a prisoner to a law-abiding life. Under § 34 subsection (2) of the Imprisonment Act, a prison is required to organise provision of education in accordance with the Education Act, the Basic Schools and Upper Secondary Schools Act and the Vocational Educational Institutions Act, as well as legislation issued on the basis thereof.

Under § 2 subsection (6) of the Education Act, the requirements – called national standards of education – shall be set out for each level of education in national curricula. The Government of the Republic Regulation of 6 January 2011 No 1 on "The basic school national curriculum" mentions technology education as a mandatory subject and considers digital skills as one of the most important skills for lifelong learning (§ 1(6) clause 7 and § 4(4) clause 8). Acquisition of digital skills is also set out in the Government of the Republic Regulation of 6 January 2011 No 2 on "The upper secondary school national curriculum" (§ 4(3) clause 8). The restriction imposed by § 31^1 of the Imprisonment Act does not enable completion of the subject of technology education and acquiring digital skills and thus acquiring proper education in prison conditions.

According to the materials of the United Nations Educational, Scientific and Cultural Organization, the use of technologies and the internet is an inseparable part of the teaching and learning process nowadays (para. II.2.3). According to the "Digital transition programme 2018–2021" approved by the Ministry of Education and Research, digital skills are one of the main tools for participating in society and the economy nowadays. Among other things, use of information and communication technology helps to make learning more attractive and broadens the opportunities for lifelong learning.

Acquiring education not only broadens the possibilities for career development and finding work. Education also has an important effect on a person's inner cognition about themselves and society through which it is possible to shift a person's identity from criminal to prosocial. Inner changes in a person are, in turn, of great importance in reducing recidivism and thus also the costs of imprisonment.[15] Enabling education in prisons and implementing contemporary approaches to teaching and learning is also considered the main measure in preventing radicalisation and deradicalisation of prisoners.[16]

It should also be taken into account that many prisoners have discontinued their education, they have behavioural and learning problems and consequently a low level of motivation. Thus, they

[14] J. Hawley, Prison Education and Training in Europe. A Summary report for the European Commission by GHK Consulting, 2013, pp 5 and 12.
[15] K. Nakamura, K. B. Bucklen, Recidivism, Redemption, and Desistance: Understanding Continuity and Change in Criminal Offending and Implications for Interventions, Sociology Compass, Vol. 8/4 (2014), pp 384–397.
[16] The International Centre for the Study of Radicalisation and Political Violence, Prisons and Terrorism Radicalisation and De-radicalisation in 15 Countries, 2010; I. M. Cuthbertson, Prisons and the Education of Terrorists, World Policy Journal, Vol. 21/3 (2004), pp 15–22.

tend to constitute a group in need of a special approach, so that traditional teaching based on books is not sufficient to involve them in the learning process.[17] In order to attract prisoners' interest and arise in them a desire for aspiration, it is particularly important to make the study process attractive and interactive.[18]

I described above how other countries have coped with the potential risks involved in the use of information and communication technology. I also explained the effects arising if people in prisons are kept in a pre-digital world.

For these reasons, the restriction imposed by § 31^1 of the Imprisonment Act is incompatible with the first sentence of § 37 of the Constitution, insofar as it does not enable learners in prison to complete the mandatory syllabus under the national curricula and thus acquire a proper education in prison conditions, and precludes the possibility to continue or begin education in a higher educational institution (e.g. in the form of e-learning).

Yours sincerely

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[17] T. Irwin, The „Inside" Story: Practiotioner Perspectives on Teaching in Prison, The Howard Journal, Vol. 47/5 (2008), p 523.
[18] R. Armstrong, Educational Partnerships Between Universities and Prisons: How Learning Together can be Individually, Socially and Institutionally Transformative, Prison Service Journal, No. 225 (2016), p 225.