



Õiguskantsler

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20.01.2020 nr 7-7/191450/2000290

Reception of family members in prison

On 3 October 2019, the Chancellor's advisers checked how Tallinn Prison receives prisoners' next of kin and children coming for a long-term visit.

Staff admitting visitors at the preliminary visitor entrance point to Tallinn Prison were terse and strict, they did not pay particular attention to visiting children nor offer them sufficient support while searching them with a service dog. The waiting room of the preliminary visitor entrance has no suitable possibilities for children to spend time. When assigning visiting times, the prison does not take into account public transport schedules. The prison has been unable to explain convincingly the existence of exceptional circumstances justifying a full strip search of all arriving visitors. Prison security is very important but use of a measure which is so restrictive of a person's rights, in particular the rights of children, can arise only from a specific risk assessment. For instance, it may be based on a visitor's prior behaviour, information previously known to the prison, circumstances arising either before or during a visit to the prison. A strip search must be documented so that the justification for it can be checked retrospectively.

Treatment that respects families and children and is considerate of their needs strongly affects the number of visits because next of kin and children are more willing to come for visits taking place in a pleasant environment. A positive experience from visits strengthens family ties and helps to direct a prisoner to law-abiding behaviour. This helps to reduce the risk of committing [new crimes](#) and thus also the [cost of imprisonment](#).

The Chancellor has repeatedly sent prisons (including Tallinn Prison) recommendations on organising visits and reception of families and children coming for a visit.¹ Unfortunately, Tallinn Prison has not significantly implemented any of the recommendations.

Circumstances

On 3 October 2019, 12 visitors arrived for a long-term visit with prisoners in Tallinn Prison: parents, a grandmother with three grandchildren, a spouse with a child, a spouse with an infant, a pregnant wife, a spouse.

The Chancellor's advisers observed a search of the arriving visitors with a service dog. In addition, the prison affirmed that the visitors' belongings were searched with an X-ray device and by hand. All the visitors were searched with a body scanner, by pat-down, as well as by conducting a full strip. As an exception, the elderly visitor, the pregnant visitor and children did not have to squat while fully stripped. No prohibited substances or items were found on visitors.

The search with a service dog took place at the preliminary visitor entrance. At the same time, prison staff and visitors not related to long-term visits were present in the room. The dog handler gathered families and children at the entrance door to the prison and informed them of an impending search with a service dog. The officer asked parents to keep infants in their arms with the face towards themselves and not to make any sudden movements with hands and arms. The officer's tone was strict and the explanation terse. The service dog was unleashed and ran among the people, the dog's movements were fast and abrupt. This frightened the visiting children who started crying and sought cover with their family members.

The room of the preliminary entrance point was relatively small, so that it was not possible to precisely guide the dog in the middle of such a large number of people. Therefore, the dog also searched all the other people then present in the room. From the preliminary entrance point, the family members and children were sent into the prison where they were searched by other methods.

Interaction

When organising visits, it should be taken into account that family members and children are often anxious and frightened about a prison visit and may feel guilt and shame for actions committed by their next of kin. Therefore, it is extremely important that prison staff are able to establish warm human contact with prisoners' next of kin, especially children. Even if perfectly family- and child-friendly rooms are available, whether the family and child wish to visit their next of kin or parent in prison depends to a large extent on communication by staff.

Staff behaviour which is empathetic, understanding and comforting in a tense situation should be facilitated and encouraged. In interaction with family, in particular children, non-formal language should be preferred. Use of prison terminology should be avoided (e.g. calling a person's imprisoned next of kin a 'convict') as this may increase – especially in children – the stress related

¹ See e.g. the 2014 [recommendation](#) to Tallinn Prison, the [summary](#) of the 2014 visit to Viru Prison, the 2016 [recommendation](#) to Tallinn prison, the appendix to the [summary](#) of the 2016 inspection visit to Tartu Prison, the appendix to the [summary](#) of the 2017 inspection visit to Tallinn Prison, the [summary](#) of the 2019 inspection visit to Viru Prison, the [recommendation](#) of 5 November 2019 to Tallinn Prison.

to imprisonment of a parent and procedures preceding the prison visit. When receiving children, the staff should interact directly with them and provide them explanations appropriate in view of their age. [In several other countries](#), staff dealing with visits often wear everyday clothes (with a name tag) instead of a uniform, so as not to emphasise the strict and punitive prison environment.

The prison must pay more attention to interaction by staff with visiting family and children. Interaction with families and children must be competent and supportive of children's emotional and physical well-being.

Visiting time

According to information on the [homepage](#) of Tallinn Prison, depending on the particular week, long-term visits take place on Tuesdays, Thursdays or Saturdays from 13.15 to 14 o'clock on the following day. Formal procedures for long-term visits begin at 12 o'clock. A visitor must be at the preliminary visitor entrance point 30 minutes earlier, i.e. at 11.30.

According to the [schedule](#) of Harju county bus route No 160, which stops at the prison, it is possible to reach the prison on weekdays at 10.36 or at 12.04. At weekends, the bus stops at the prison at 10.17 or 12.17. Thus, people who cannot use their own car or a taxi have two possibilities – either to arrive considerably early or be late for a visit.

For example, on 3 October 2019, a mother with a child waited at the preliminary prison entrance point for more than an hour and a half until the reception formalities were complete. Thus, they spent more than two and a half hours altogether waiting in the prison until the start of the visit. Two visitors came with the later bus and arrived in prison a few minutes after 12 and were therefore met with disapproval by the staff.

Visiting hours for long-term visits should be revised and adjusted, so that visitors arriving by public transport would also be able to reach the prison in time for the visit and would not have to wait long. Waiting long is particularly inconvenient for people coming for a visit with small children.

Waiting room at the preliminary entrance point

The preliminary entrance point waiting room does not meet the needs of children of different ages. The toilet has no baby-changing table. The waiting room had no play corner for children, drawing materials, books, etc. Nor were there any information materials on visits available at the preliminary entrance point. Simple and clear information about different stages of visits, possible searches and other procedures would be useful for visitors.

In the appendix to the [summary of the inspection visit](#) in 2017, the Chancellor asked that Tallinn Prison should provide equipment necessary for play or shared activities for children in the waiting room, fit out the room with appropriate furniture and a play corner, and display information explaining the procedure for visits. I ask that these recommendations be also observed in new prison buildings.

Searches

To ensure prison security, all family members and children arriving for a visit with a prisoner are searched prior to the visit. The search is carried out with the help of a service dog, X-ray equipment, metal detector, pat-down, and a full strip. Where necessary, and if the person consents, the person's body cavities are searched, and their drug and alcohol intoxication is checked at the prison medical department.

Prison security is extremely important but, to achieve it, measures proportionate to this objective should be implemented. The more restrictive a measure, the more thoroughly its application should be considered. A decision to subject all visitors to a full strip search every time is an indication of the established rules and the absence of discretion. Generalised references to security considerations, as well as findings of prohibited items and substances over the years (unrelated to these particular visitors), are not sufficient to justify the use of such a restrictive measure every time and for everyone. The Chancellor had previously emphasised this already in [recommendations](#) on searches issued to Tallinn Prison.

The prison accommodates very different people serving a sentence for crimes of a widely differing nature. Prisoners' next of kin also have very different backgrounds. It is arbitrary to presume that an increased risk of smuggling prohibited items and substances to prison exists equally in the case of all prisoners and their next of kin coming for a visit. That approach indicates the absence of dynamic security in the prison. [Dynamic security](#) presumes, inter alia, that prison officers know the prisoners in their institution and communicate with them. They know what is happening in the prison and are able to competently assess situations (including whether a prisoner intends to obtain, or has an increased interest in obtaining, through visitors, items or substances prohibited in prison).

According to information collected by the Chancellor, in practice applicable in prisons in other countries a full strip search is an exceptional measure considered only in the event of a specific and reasoned suspicion.² In order to prevent prohibited items and substances reaching the prison, where necessary, the prisoner would be searched first of all after a visit. This is also common in Estonian prisons.

Under § 32(2) of the Regulation on the "[Organisation of supervision in prison](#)", the search of a prisoner is mandatory, including after a long-term visit. This considerably diminishes the possibility of prohibited items and substances reaching the prison after a visit. Consumption of prohibited substances during a visit can be detected by a mandatory drugs test following the visit, consumption of tobacco products can be detected by smelling and installing smoke detectors in the visiting room. If prohibited substances or items are found, a visit may be cancelled, or future visits restricted. This also provides reasonable grounds for a more extensive search of a specific visitor in the future.

Tallinn Prison has not set out or justified under what exceptional circumstances it was decided to conduct a full strip search of all visitors arriving for a long-term visit on 3 October 2019. Such a search may only be based on specific circumstances. The necessity to apply the measure may be

² See also the Danish [executive order](#) on prison visits, §§ 10–14; the Swedish [Imprisonment Act](#) Chapter 7 § 3, Chapter 8, §§ 3–7; the Norwegian [Execution of Sentences Act](#), §§ 27–28; the Icelandic [Execution of Sentences Act](#) § 47; the Finnish [Imprisonment Act](#) Chapters 13, 17; the Austrian [Imprisonment Act](#) § 101.

based, for example, on information previously known to the prison, a visitor's prior behaviour, or circumstances arising before or during a visit in prison. Information about a search must be recorded so that the justification for it can be checked retrospectively.

A suitable room must be found to carry out a dog search of family and children arriving for a visit as well as their belongings. The presence of other people during a search with a service dog is not necessary or justified and creates an atmosphere which may feel hostile and intimidating for the next of kin and children.

I expect feedback to the recommendations by 13 March 2020.

Ülle Madise

Copy: Ministry of Justice, Tartu Prison, Viru Prison